Nation's Business

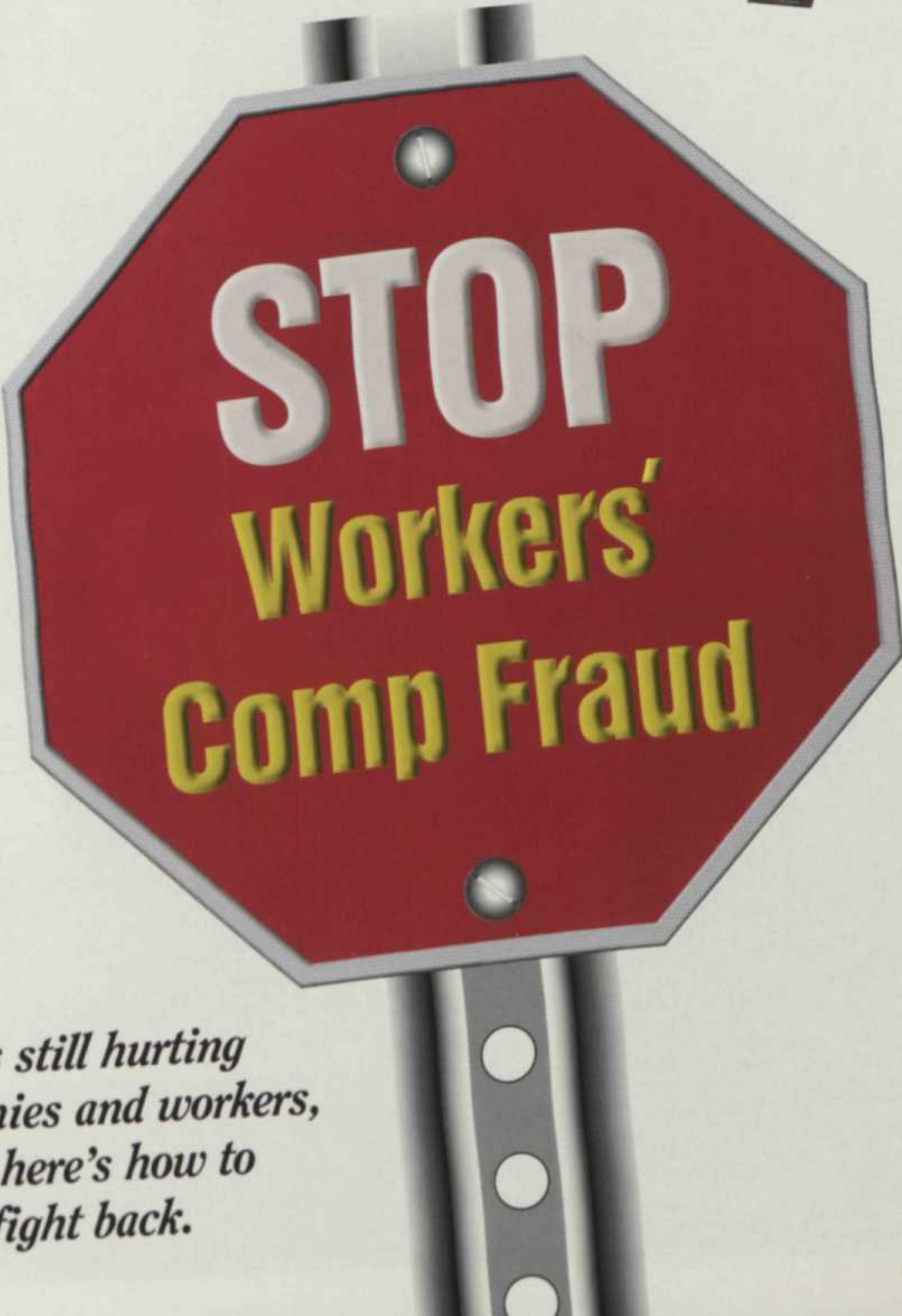
The Small Business Adviser

Published by U.S. Chamber of Commerce

IRS Will Broaden Scrutiny Of Tips

User-Friendly Tax Software

National Blue Chip Honorees



It's still hurting companies and workers, but here's how to fight back.

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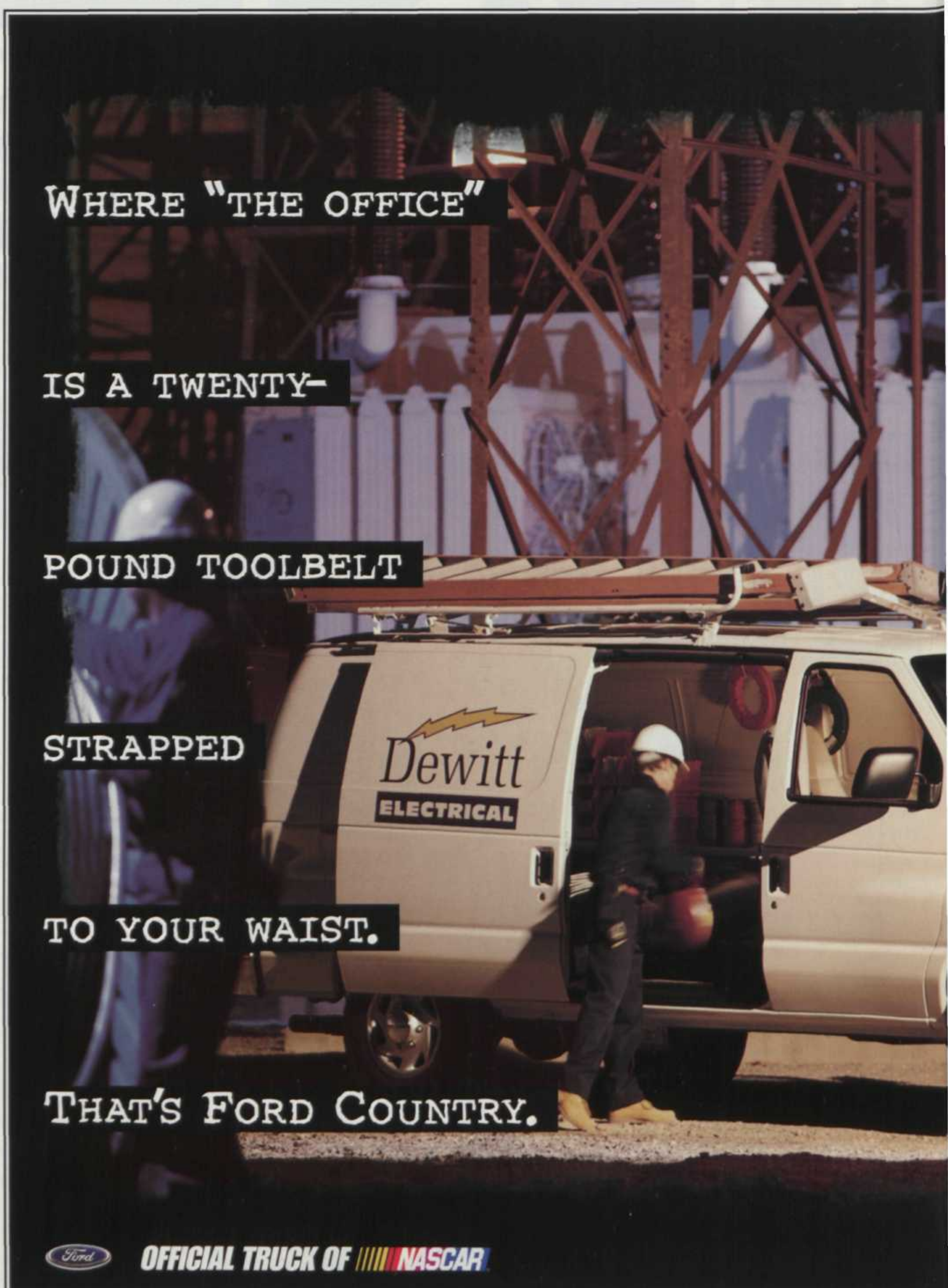
WHERE "THE OFFICE"
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TO YOUR WAIST.
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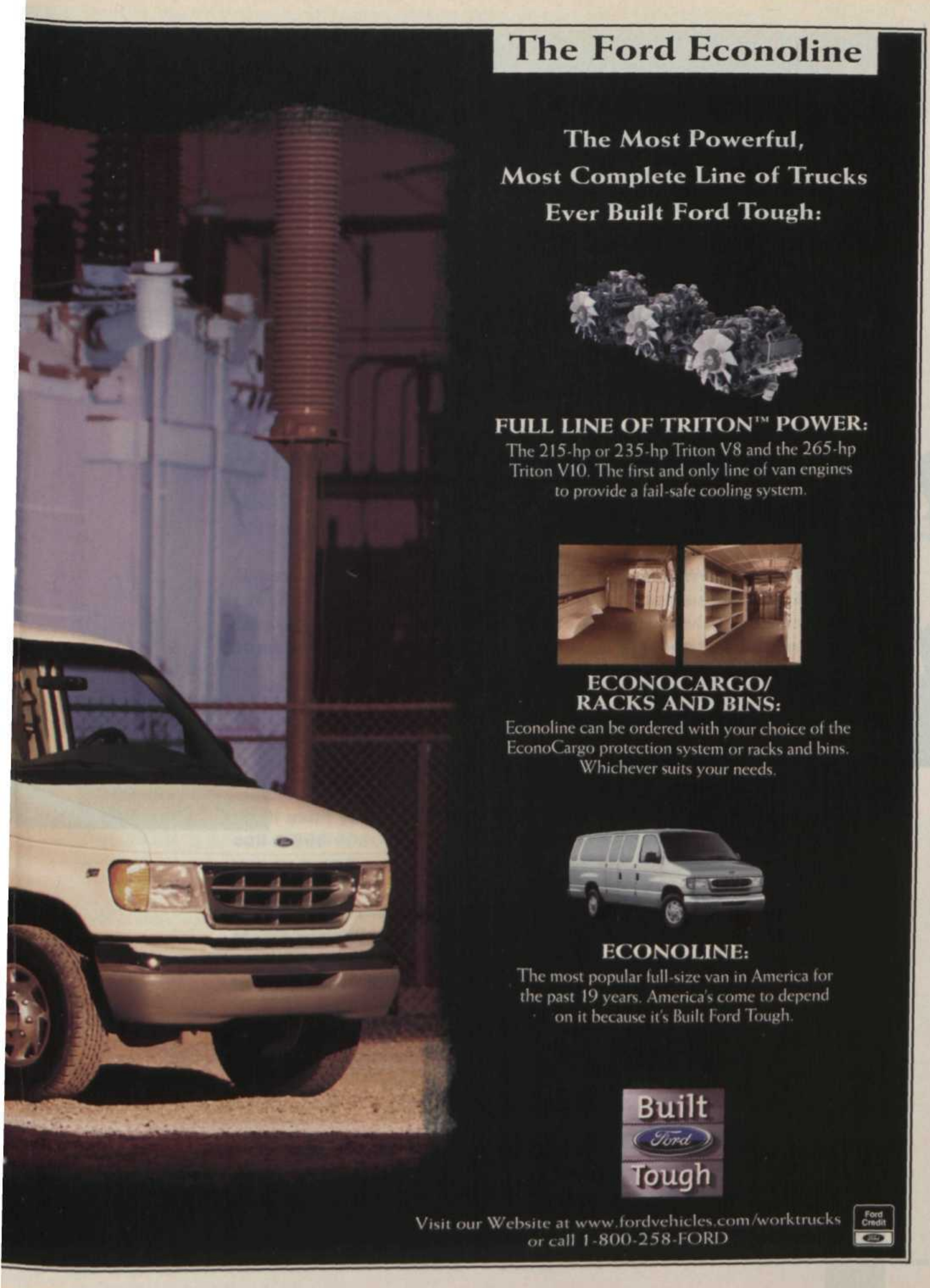
ELECTRICAL
Ford
OFFICIAL TRUCK OF NASCAR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Paperwork is not a necessary

Nation'sBusiness

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Washington, D.C.

PHOTO: ©TODD BUCHANAN

When van-company co-owner *Timothy Jans had a driver's claim for workers' compensation investigated, the employee was convicted and Jans' premium was cut—illustrating the benefits of assertiveness in combating workers' comp fraud. Cover Story, Page 14.*

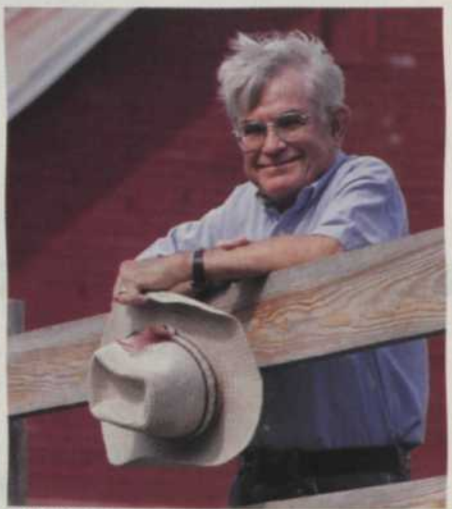

PHOTO: ©JOE ROSSI

A complex tax break *for family businesses could let Bob Pool's farm pass to his heirs free of estate taxes. Finance, Page 24.*

VOL. 86, NO. 4

PHOTO: ©BARRY STAVER

Pet-care providers *Terry and Donna Plunkett, among others, offer perspectives on traits for success. Franchising, Page 59.*

DEPARTMENTS

Cover Design: Hans A. Baum

Nation's Business (ISSN 0028-047X) is published monthly at 1615 H Street, N.W., Washington, D.C. 20062-2000. Tel. (202) 463-5650 (editorial). Advertising sales headquarters: 711 Third Ave., New York, N.Y. 10017. Tel. (212) 692-2215. Copyright © 1998 by the United States Chamber of Commerce. All rights reserved. Subscription prices (United States and possessions): one year, $22; two years, $35; three years, $46. For Canadian and other foreign subscriptions, add $20 per year. Periodicals postage paid at Washington, D.C., and additional mailing offices. Canadian GST Registration # R131556180. **POSTMASTER:** Send address changes to ***Nation's Business***, 4940 Nicholson Court, Kensington, Md. 20895. **To inquire about your subscription or to make a change of address, please call 1-800-638-6582, or in Maryland, 1-800-352-1450. *Photocopy Permission*:** Where necessary, permission is granted by the copyright owner for those registered with the Copyright Clearance Center (CCC), 222 Rosewood Drive, Danvers, Mass. 01923, to photocopy any article herein for a flat fee of $1.50 per copy of each article. Send payment to the CCC. Copying without express permission of ***Nation's Business*** is prohibited. Address requests for reprints to ***Nation's Business*** Reprints, 1615 H Street, N.W., Washington, D.C. 20062-2000, or call 1-800-692-4000.

Printed in the U.S.A.

Editor's Note

Is Your Company At Risk?

Like many other programs intended to help people, workers' compensation insurance is marked by a degree of abuse. While now and then an employer may be the perpetrator of workers' comp fraud, more often than not he or she is the victim. Is your company among those that have been cheated—or could be?

PHOTO: T. MICHAEL KEZA

Senior Associate Editor Steve Blakely, pictured above, describes in this month's cover story how the workers' comp system is abused. He looks at the extent of fraud, why it's so pervasive, and what employers can do to prevent it. This article, one that every employer should read, begins on Page 14.

If you've considered owning a franchise but aren't sure whether you'd be suited for such a business, you may want to read "The Perfect Franchisee," beginning on Page 59. It could help you decide if a franchise is right for you.

If your company employs workers who receive tips, see "Keeping Track Of Tip Income," starting on Page 31.

PHOTO: ©KEN TOUCHTON

These are just two of the many features in this issue designed to help employers run their businesses better.

Readers interested in the stories that successful entrepreneurs have to tell should see our feature on the 1998 national honorees in the Blue Chip Enterprise Initiative. The program honors small businesses that have overcome obstacles and emerged stronger. In "Raking In The Blue Chips," beginning on Page 36, Senior Editor Michael Barrier profiles these outstanding businesses. (Pictured above left are the companies' owners with the trophies they received at the recent annual meeting of the U.S. Chamber of Commerce.)

For details on how to have your company considered for the 1999 awards, see the information in the box at the bottom of Page 41.

Mary Y. McElveen

Mary Y. McElveen
Editor

Letters

Would You Sue Grandmom Over Scalding Coffee?

Regarding "Lawsuits Gone Wild," your February cover story: The system is set up so that one set of plaintiffs' lawyers can fight the other set of defendants' lawyers. It is interesting to note that those being sued have enough money to satisfy any judgment. In other words, the issue isn't so much about

redressing a wrong as it is about extorting money through settlements in which the party being sued pays to avoid further legal expense.

Even if you are being sued maliciously or wrongly, you pay to avoid further expense. Is this justice?

If the woman who was awarded $2.7 million in punitive damages after she was burned by McDonald's coffee had had the same problem with her grandmother's, her husband's, or her local charity's coffee, would she have sued? I think not. Only those who can settle get targeted. The cost to society is abhorrent.

Patrick Darcy
Woodland Hills, Calif.

Clients Share The Blame

There seems to be a glaring omission in James P. Economos' catalog of villains responsible for excessive lawsuits [Letters, March].

He states: "The United States is a country with too many lawyers, but it is also a country with too many laws that give those lawyers a license to steal."

We should all be aware that behind every rapacious lawyer is a rapacious client attempting to get something he or she doesn't deserve.

Without such clients, no lawyer would be able to pursue contingency-fee litigation.

Edwin Levi
Englewood, N.J.

The Threat Of Punitive Damages

I am a small-business man who pays his taxes and obeys the law. I try to set a good example for my employees, and our business attempts to set a good example for the community. All of the good work from my office, however, gets lost when irresponsible journalists distort the truth and engage in yellow journalism.

Your February cover story is a classic example of how the American people can be misled by a publication that is attempting to brainwash them to believe its agenda—that is, that lawsuits are going wild and businesses are collapsing as a result.

Responsible and honest studies have demonstrated that there has been a decrease in lawsuits, not an increase. The main litigants are businesses that sue other businesses. The only way to protect American consumers is to allow them access to lawyers.

The threat of punitive damages against a company that engages in illegal and reprehensible conduct is the only true tool still available to the American public.

Roger A. Dreyer
Attorney At Law
Dreyer, Babich, Buccola & Callaham
Sacramento, Calif.

Make Losing Plaintiffs Pay

In reference to the February Where I Stand poll's Question 3 ("Should plaintiffs have to pay your legal fees if they sue you and lose?"), it seems that some people will sue at the drop of a hat because a trial lawyer says he or she will handle the case for a percentage of the award or settlement. Plaintiffs who lose their lawsuits are out nothing, but the defendants are out their legal fees plus their time.

Plaintiffs who lose their cases should be made to pay all the defendants' legal fees plus compensate them for their time. I believe this would stop a lot of frivolous lawsuits.

John F. Kruse, Owner
Lexington Communications
Lexington, Neb.

Ethical Principles On The Road Of Life

It was refreshing to read "Doing The Right Thing" [March]. I do my best to follow those ethical principles in leading my business.

Well over 20 years ago, I read a quote

from a preacher: "Integrity is what you do with your fast-food garbage while driving down an old country road, at night, by yourself."

I have never forgotten it. It applies to all areas of life: marriage, children, and business.

I believe that if you can do what's right on that old country road, the big temptations are easy to conquer.

Mark Reasbeck, Owner
Legend Windows for the West
Las Vegas

Freedom Of Holidays Is Not A New Idea

Allowing employees to choose holidays is not a new concept [Managing Your Small Business, February]. I did the same thing 25 years ago at my New York City firm, Eagle Graphics, Inc.

In 1973 I had a multicultural staff and a client list that included Wall Street investment firms and banks. We offered them service 24 hours a day, seven days a week. And their holidays did not coincide with ours in many cases.

I solved the holiday problem by offering employees 12 days off each year with pay, over and above sick time and vacation. There was no list from which to choose, but they were required to give at least two weeks' notice.

It worked out well. For example, some chose time off at Christmas, some for Hanukkah, and some during Ramadan—and one Buddhist took off on his birthday.

A.M. Warr
Director
Business Owners Institute
Bridgewater, N.J.

Fast-Track Authority: It's More Than Just Trade

Fast-track authority for the president is needed for more than promoting exports to Latin America, as your article noted [Dateline: Washington, January].

A Free Trade Area of the Americas (FTAA) also would improve commercial practices and foster better cooperation on every other issue that we face in this hemisphere.

As an example: For a decade, the United States has railed against Argentina's pirate drug industry, which costs our pharmaceutical firms a half-billion dollars in lost sales annually. European firms lose, too, and European Union officials are joining the chorus.

On the day the United States is ready to negotiate an FTAA, Argentina will need to bring its patent law up to world standards as a condition of joining the FTAA. Without fast-track authority, that will not happen.

Similar examples abound in areas beyond intellectual property. With the hemisphere's largest and most innovative economy, and as its largest trader, America would gain more than others from a pact that opens markets and raises commercial standards.

It's time for the president to rejoin the fray, and for Congress to get the message.

Merrick Carey
President
Alexis de Tocqueville Institution
Arlington, Va.

Kudos For Review Of The Mac Platform

Your recent positive assessment of the Macintosh platform as a system for small business [Small Business Technology, December] is absolutely correct.

It is refreshing to read an honest review from a magazine that is still concerned about the truth of the topic being discussed, as opposed to simply relabeling some company's press releases.

The Mac platform also proves one of the founding premises of American business: Competition produces superior products.

Robert Johnston
President
Johnston Design Associates Ltd.
Toronto

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Dateline: Washington

EMPLOYMENT

Democrats Bid To Raise The Minimum Wage

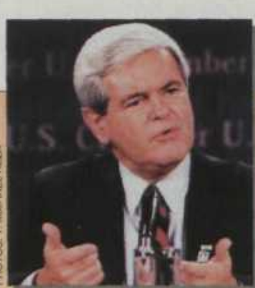
The push is on again to raise the federal minimum wage—this time from the current $5.15 an hour to $6.65 by September 2000.

The proposal for an increase was introduced by Sen. Edward M. Kennedy of Massachusetts, the senior Democrat on the Senate Labor and Human Resources Committee. The Clinton administration is endorsing a $1 increase, to $6.15 an hour by September 1999.

Under either plan, the minimum wage would get an election-year boost this September of 50 cents an hour, to $5.65, just one year after it was raised to $5.15 from $4.75. That increase and the one preceding it—which raised the wage to $4.75 from $4.25 in October 1996—were enacted in 1996.

Kennedy proposes two more 50-cent increases, in September 1999 and September 2000. Clinton would provide one more 50-cent increase, in September 1999.

Kennedy fired the opening round of the wage-hike drive in a December speech at the National Press Club in Washington: "I am optimistic that we will succeed because Republicans have learned that it is dangerous to resist a Democratic increase in the minimum wage in an election year." Clinton agreed in mid-February to support the $1 increase over two years.



PHOTOS: T. MICHAEL KEZA

Rep. Gingrich Sen. Kennedy

How The Federal Hourly Minimum Wage Has Grown

October 1938....$0.25	January 1978......2.65
October 1939......0.30	January 1979......2.90
October 1945......0.40	January 1980......3.10
January 1950......0.75	January 1981......3.35
March 1956......1.00	April 1990......3.80
September 1961......1.15	April 1991......4.25
September 1963......1.25	October 1996......4.75
February 1967......1.40	September 1997......5.15
February 1968......1.60	September 1998*.....5.65
May 1974......2.00	September 1999*.....6.15
January 1975......2.10	September 2000**...6.65
January 1976......2.30	

* Proposed by Sen. Edward M. Kennedy, D-Mass., and President Clinton
** Proposed by Kennedy

SOURCE: U.S. DEPARTMENT OF LABOR

Any proposed increase, however, is strongly opposed by the Republican congressional leadership and various business groups, most notably the U.S. Chamber of Commerce. Chamber President and CEO Thomas J. Donohue and 14 other business-association leaders wrote Clinton to protest his proposal, saying a higher minimum wage could hurt efforts to move welfare recipients into paying jobs: "These jobs are threatened by mandated increases in the entry-level wage. It would indeed be ironic if employers were forced to curtail the employment of former welfare recipients due to a government-required increase in the cost of entry-level jobs."

Meanwhile, House Speaker Newt Gingrich, R-Ga., addressing a Chamber audience in February, echoed those concerns by saying that the proposed increase would hurt the "hard-core unemployed," especially black and Hispanic teenagers. He added: "People most in need of a job will actually be hurt by the president's proposal."

The outlook in Congress for boosting the minimum wage is uncertain, but in an election year, many lawmakers may be reluctant to vote against it. *—James Worsham*

HEALTH CARE

Patient Protections Ordered For Medicare, Federal Workers

In a bid to get private-sector employers to follow suit, President Clinton on Feb. 20 issued an executive order to establish the protections in his proposed health-care "bill of rights" for all 75 million Medicare recipients and the 9 million federal employees and their families covered by other health plans.

The president directed federal agencies to adopt the new standards by the end of 1999.

The health-care bill of rights, which Clinton endorsed in November, would create minimum standards and protections to which all patients would be entitled. (See "A 'Bill Of Rights' For Patients," January.) At press time, the president's plan for all patients had not been introduced in Congress.

In issuing his executive order, Clinton urged Congress to set the same standards and protections for the nearly 180 million Americans with private health coverage.

Congressional Republicans and insurance-industry executives criticized Clinton's action and sharply disputed the White House claim that the extra protections for federal workers will not create significant additional costs for the government.

Some of the protections already are provided in various government health programs. *—Stephen Blakely*

THE ENVIRONMENT

Clinton's Clean-Water Program

President Clinton is proposing a new clean-water program that would curb waste runoff from farms and other sources.

The plan, unveiled by Clinton Feb. 19 at Baltimore's Inner Harbor, would be a $2.3 billion effort over five years to further restrict discharges that the U.S. Environmental Protection Agency says are the major sources of contamination in rivers and lakes. The proposal, requiring congressional approval, would add to restrictions under the Clean Water Act of 1972, currently up for reauthorization in Congress.

Among other things, the Clinton program would set tougher federal rules for pollutants found in fertilizers, sewage, and animal waste, and it would require state and local governments to come up with plans to reduce such pollutants. The plan calls for creation of 2 million miles of filter strips of grass and trees along riverbanks to act as pollution buffer zones. *—Stephen Blakely*

UNITED PARCEL SERVICE OF AMERICA INC.

Rates for Domestic Services To Increase in February

United Parcel Service of America Inc. said it will raise rates for most domestic services beginning in February. The rate increase for the Atlanta shipping company will include a 3.3% jump for most domestic air-express services and an average increase of 3.6% for standard ground-commercial shipments in the U.S. and Puerto Rico. UPS said ground service to residential addresses also will cost about $1 more than the new commercial-ground rates. Rates for international services will remain the same, the company said. The rate increase continues the company's tradition of boosting rates each year and is in keeping with UPS's previously announced intention not to lower rates to win back market share lost due to a crippling Teamsters strike this year.

As appeared in The Wall Street Journal 12/31/97†

FEDERAL EXPRESS CORP.

Rate Increase of 3% to 4% Matches UPS Price Jump

Federal Express Corp., matching a price increase by archrival **United Parcel Service of America** Inc., said it will raise rates for domestic deliveries by 3% to 4% beginning in February. International rates for the express-delivery concern will be unchanged, the Memphis, Tenn., company said. Closely held UPS, Atlanta, previously announced it would raise domestic rates by more than 3% in February. Separately, FedEx said it is introducing a new guaranteed five-day delivery product for overseas-freight shipments weighing more than 150 pounds. The service, which will cost about 30% less than the company's premium two-day international deliveries, will be available for deliveries between the U.S. and major markets in 13 countries in Europe, Asia and Latin America.

As appeared in The Wall Street Journal 1/7/98†

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ENTREPRENEUR'S NOTEBOOK

Delegating Duties The Right Way

By Basil Bernard

For most of my company's 12-year history, I subscribed to the idea that doing something right meant doing it yourself.

This philosophy kept me directly involved in every aspect of the business, from personally handling both large and small sales to going in early every morning to make sure that the distribution process was going exactly the way I wanted it to go.

When Greg Silvera and I started our Miami-based office-supply-distribution company together with our wives, my taking the lead in every aspect of the business made sense.

Greg was working another job, and competing with the office-supply giants made it imperative that we establish a firm identity that reflected the way we wanted to do business.

But as Apricot Office Supplies & Stationery, Inc., grew—we now have 26 employees and $7.5 million in annual sales—it became increasingly clear that a growing business can't be fully nurtured by the efforts of a single individual.

That meant I needed to loosen my grip. For entrepreneurs in similar situations, here are some suggestions that can help make for a smooth handoff of power:

Temper yourself. When you realize you need help running the business, resist the urge to cast off responsibilities in a rush.

First, create the structures necessary for successful delegation of tasks. Likewise, if you promote an employee, add responsibility gradually. This gives you time to grow into the role of coach while you determine how much responsibility an employee is ready to take on.

Delegate specific tasks. Five years into the business, when Greg made the transition to working partner, we agreed that his sole focus at first would be to expand our largest and most prized account—a job I couldn't handle while I was doing everything else.

Basil Bernard is president of Apricot Office Supplies & Stationery, Inc., in Miami. He prepared this account with Contributing Editor Susan Biddle Jaffe. Readers with insights on starting or running a business are invited to contribute to this column. Write to: Entrepreneur's Notebook, Nation's Business, *1615 H Street, N.W., Washington, D.C. 20062-2000.*

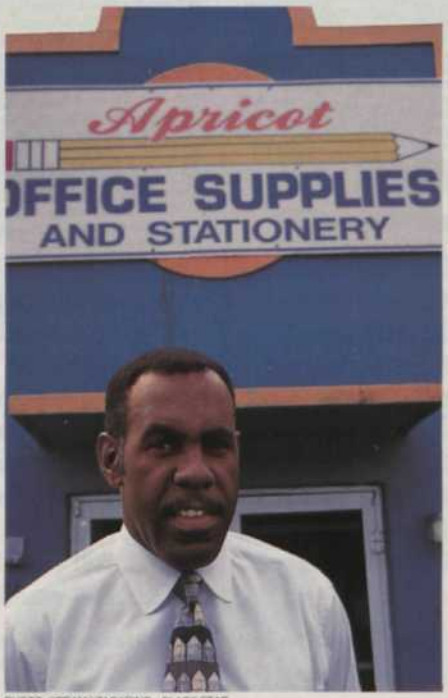


PHOTO: ©FRANK ZAGARINO—BLACK STAR

Giving *certain responsibilities to employees freed Basil Bernard to handle other aspects of his office-supply distributorship.*

With any delegation of duties, being specific about the scope of responsibilities and authority is key to a successful transition. Be direct about expectations and established practices, making sure you explain not only how things should be done but why.

Choose individuals carefully. To grow "your way," you might need someone who can replicate your efforts. Choose people you trust who have the ability to meet or exceed your expectations.

Stand by those you choose. Change takes time, and both you and your employees must adjust to the new link in the chain of command.

Make your support and confidence in the new manager evident, even when you're playing mediator. Be respectful but firm in reiterating to employees the authority you have delegated, especially if you see employees trying to make an "end run."

Communication is a two-way street. Delegating isn't about sweeping change. Nor is it about doing things exactly the way you've always done them. Try to maintain a balance: Recognize when your appointee has a better take on something and remain open to hearing what he or she has to say.

Not everyone is a manager. Someone may be great at specific tasks but not good at managing others in completing those tasks.

Unfortunately, there's no sure-fire way to know that until a person is placed in a managerial role. If a shift in authority isn't working, consider a further change in personnel before you take back the responsibility.

Make use of the freedom. When I realized that the employee who helped me in the early mornings with distribution did a good job without my telling him what to do, I stopped handling distribution. Empowering him gave me time to attend to other aspects of the company during those hours.

That's one of the greatest benefits of delegating: It lets an entrepreneur see the whole picture instead of just small pieces of the puzzle. NB

WHAT I LEARNED

Establishing structures and choosing carefully can help avoid fumbles when you're handing off authority.

Managing Your Small Business

Raising the stakes in down times; bringing in repeat customers; the rules on service animals.

By Thomas Love

QUALITY

Sometimes Better Is Better Than Cheaper

A natural reaction to a downturn in business is to cut prices, reduce costs, and hope that customers will sense a bargain and come through the door.

But there's another way to compete in a down market, a way used successfully by Carmelo Mauro, who runs Carmelo's Italian Restaurants in Houston and Austin, Texas.

When Texas was hit by a recession in the mid-1980s, "I had to be a rebel and go against the trend. I didn't want to follow everybody else," he says. Rather than trying to compete on price, he decided to compete on quality and invest for the future.

PHOTO: ©PAUL S. HOWELL

When Texas was hit *by a recession in the mid-1980s, Carmelo Mauro bucked conventional thinking by raising prices—and quality—at his Italian restaurants in Houston and Austin.*

So, while other restaurants were cutting prices, he raised his. While others were offering more-limited menus, he enlarged his and used costlier ingredients. And while others were paring their wine lists, he expanded his, adding expensive French selections.

"In no way could I compete with the large Italian-American pizza chains and their $3.99 buffets," Mauro says. "I marketed quality to attract a specific clientele, the only ones who could afford to eat out anymore and did not want to eat at a mass-volume restaurant.

"Even in the worst economy there are people making fortunes, just as in the best economy there are people failing," he says. "I offered an owner who personally greeted people at the door and worked the floor. We offered the decanting of wines, live accordion music, and a menu featuring lobster, beluga caviar, calamari, escargot, and black fettucini. I brought back the forgotten elegance of tableside cooking."

For his commitment to quality, he was named a 1997 honoree in the Blue Chip Enterprise Initiative, an annual program that recognizes small firms that have overcome challenges. It's sponsored by Massachusetts Mutual Life Insurance Co. (known as MassMutual—The Blue Chip Company), the U.S. Chamber of Commerce, *Nation's Business*, and "First Business," the Chamber's weekday morning television news show. ■

SHIPPING

It Pays To Check Out Your Freight Forwarder

Small companies lose more than money when they fail to pay attention to how their products are shipped. Relations with customers can suffer, too, if goods are late, damaged, or missing.

One way to prevent problems is to keep close tabs on your freight forwarder.

Bill Moultrie, president of Airgroup Express, Inc., a freight forwarder in Bellevue, Wash., says that these are some of the things you should expect from a forwarder:

- It regularly recommends ways to improve your product flow and routings.
- It has an information system compatible with your firm's. For example, the forwarder provides information rapidly, accurately, and in a user-friendly way; the company does not generate nonessential reports.
- It is financially secure. Make certain the forwarder's cash flow is sufficient to pay vendors in a timely way, and check the firm's credit rating.

Owners of companies that ship goods should visit their forwarders' local offices. Are they well-maintained? Is electronic equipment in proper working order? Is there a general air of competence and good organization? Because forwarding involves managing logistics, these aspects can be a good indication of the quality of service that can be expected.

Finally, see if the manager of the office where you consign your cargo is interested in your business. Does he or she respond when you call with an urgent problem?

The freight forwarder's employees, including senior officials, should be interested in your freight even if you ship relatively small quantities, says Moultrie.

—Roberta Maynard

BUILDING RELATIONSHIPS

Hanging On To Customers When The Bottom Falls Out

If your company takes a downturn, it makes good sense to concentrate on your most valuable asset—your loyal customers.

John D. Stites II, president of J&S Construction Co. of Cookeville, Tenn., took this approach, and it saved his company.

The mid-1980s were a boom time for J&S, which was expanding rapidly. Revenues, payroll, capital investment, overhead, and expectations were soaring.

Then the economy entered a recession, and the construction industry was hit hard. Many projects were put on hold as banks and other financing sources tightened their lending requirements.

The recession's impact on J&S was dramatic. Growth ended in 1989, and revenues subsequently collapsed, plunging more than 66 percent from 1989 to 1991.

Stites took the obvious steps. The work force was reduced through attrition and voluntary layoffs, capital and overhead commitments were restructured, and expectations were re-examined and redefined. "We began to take a professional approach to an industry without a lot of professionalism," Stites recalls.

While searching for a way out of the hole the company was in, Stites noticed that one salesman was doing quite well despite the economy's condition. He discovered that 85 percent of the man's sales was to a small group of repeat customers that he had been serving for some time.

"These people knew he had a personal interest in what they were doing," Stites says. "We wondered if we could apply this to the company as a whole and found that, yes, we could build those relationships."

The company set out to create a level of professionalism unmatched in the construction industry. Stites says he dedicated himself and his company to offering customers no less than quality workmanship, reliability, schedule adherence, competitive pricing, attentiveness, technical ability, and a safe work environment.

Stites' approach worked. The company turned around, and last year revenues exceeded the previous high, set in 1989.

Stites' relationship-building approach to business resulted in his being named a 1997 honoree in the Blue Chip Enterprise Initiative, which honors companies that have overcome challenges. Sponsors of the program are Massachusetts Mutual Life Insurance Co. (known as MassMutual—The Blue Chip Company), the U.S. Chamber of Commerce, *Nation's Business*, and "First Business," the Chamber's weekday morning television news show.

PHOTO: ©STEPHEN ALVAREZ

Taking a personal interest *in customers helped pull J&S Construction Co. out of a hole, says John D. Stites II, right, the firm's president, with foreman Bobby Prater, center, and Drew May, operations manager for ABC Technologies. J&S was building a Tennessee facility for ABC, a cost-management software and services company in Beaverton, Ore.*

CUSTOMER ACCOMMODATIONS

You Must Serve Customers Who Have Service Animals

Most small-business owners know that federal law prohibits discrimination against blind customers with guide dogs.

But it is not as widely known that the 1990 Americans with Disabilities Act (ADA), which requires accommodation of people with disabilities, also protects any animals trained to assist the disabled.

Animals—not just dogs—have been trained to alert deaf people to sounds, retrieve objects for people with mobility disabilities, and perform other tasks.

Under the ADA, service animals must be allowed into sections of a business open to the public, even establishments such as restaurants and hospitals, which generally would not permit animals.

In practice, according to the U.S. Department of Justice, the animals can be excluded from those areas only when they would pose a "significant health risk."

The ADA pre-empts local health regulations and state laws unless their protections for the disabled are broader than the federal law's.

A business may require a service animal's owner to remove the animal from the premises if it creates a "fundamental alteration" in the business by, for example, begging for food or barking, says Susan L. Duncan, a coordinator for the Delta Society, based in Renton, Wash. The society was established to promote the concept of animals helping people improve their health, independence, and quality of life.

However, Duncan points out that for an animal to be removed legally, its behavior must be worse than that which would be tolerated of a person. For instance, a whining dog couldn't be evicted if it were not as loud as screaming children who were permitted to remain.

For more information, contact the Delta Society at 1-800-869-6898 or go to *www.deltasociety.org* on the Internet.

NB TIP

Relevance In Retailing

International accounting and consulting firm Ernst & Young says a retailer can rise above the crowd in the marketplace by focusing on one of the key attributes listed below. The companies cited are among those that the firm says exemplify those qualities.

Price/value: Offering superior value every day on every item (Wal-Mart).

Service: Always treating consumers well, often with highly personalized attention (Nordstrom).

Product: Offering the best and most innovative products in the sector served (Williams Sonoma).

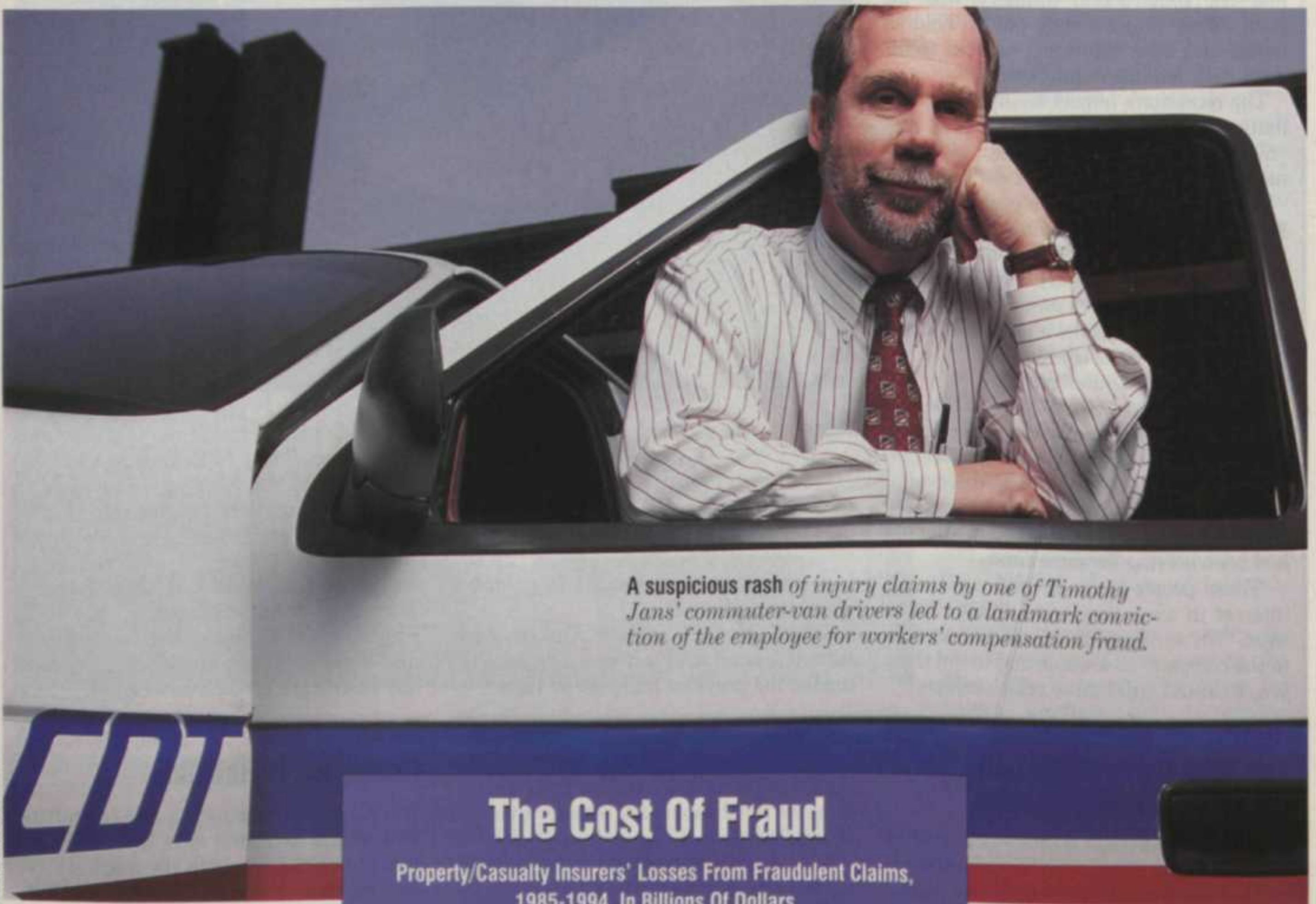
The experience: Making each visit a unique experience (Disney Store and Planet Hollywood).

Access: Located on every street corner in their neighborhood and known for convenient hours (Walgreen, Dunkin' Donuts, CVS). NB

COVER STORY

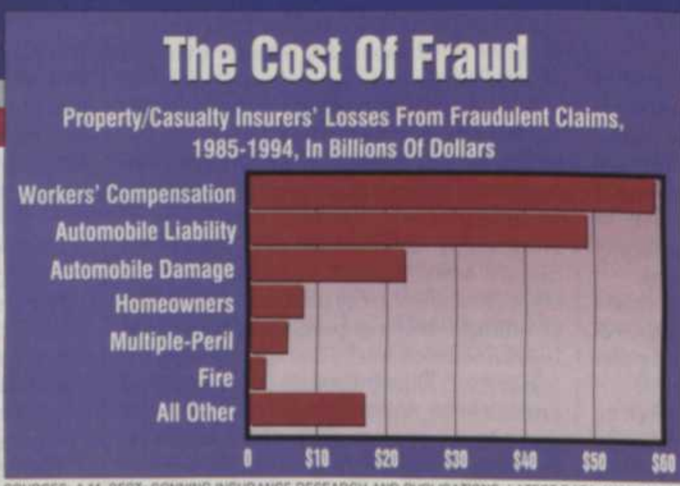
Fighting Fraud In Workers' Comp

By Stephen Blakely



A suspicious rash *of injury claims by one of Timothy Jans' commuter-van drivers led to a landmark conviction of the employee for workers' compensation fraud.*

PHOTO: ©TODD BUCHANAN



SOURCES: A.M. BEST; CONNING INSURANCE RESEARCH AND PUBLICATIONS. LATEST DATA AVAILABLE.

CHARTS: KATHLEEN VETTER

Timothy Jans, co-owner of Cook-DuPage Transportation Co. in Chicago, still bristles at the memory of the scam that almost worked. In just six months in 1995, one of his commuter-van drivers had four nearly identical rear-end traffic accidents that resulted in very minor damage to the van but very major insurance claims, including claims for workers' compensation. Each time, the driver complained of a back injury and collected insurance payments while off the job.

Jans recalls that "something smelled fishy" about the driver's rash of injury claims. "People talk, and we picked up that [the suspect driver] wasn't really hurt. So we complained to our insurer because our premiums had been going up," Jans says.

Cook-DuPage's insurer, Fremont Compensation Insurance Group of Glendale, Calif., has a reputation for aggressiveness in fighting workers' comp fraud. The company quickly put the "injured" driver under video surveillance, and suspicions were confirmed: The driver was working secretly as a tow-truck operator while getting workers' comp payments to stay home with a bad back—a scheme that not only bilked the insurer but also cost Cook-DuPage sharp increases in its insurance premiums.

"They caught him on videotape trying to get a tow on a small car that was parallel

Armed with stronger laws, new resources, and a tougher attitude, employers and their insurers are striking back against this costly brand of cheating.

parked," recalls Jans. "He goes behind the car, bends down, and physically shoves it out of the parking space—by himself! It's great video."

That ironclad evidence made workers' comp history in Illinois. The driver was convicted and served about a month in jail for felony insurance fraud. It was the first time in Chicago that a worker had been prosecuted and imprisoned under the state's workers' comp law, according to Fremont Compensation.

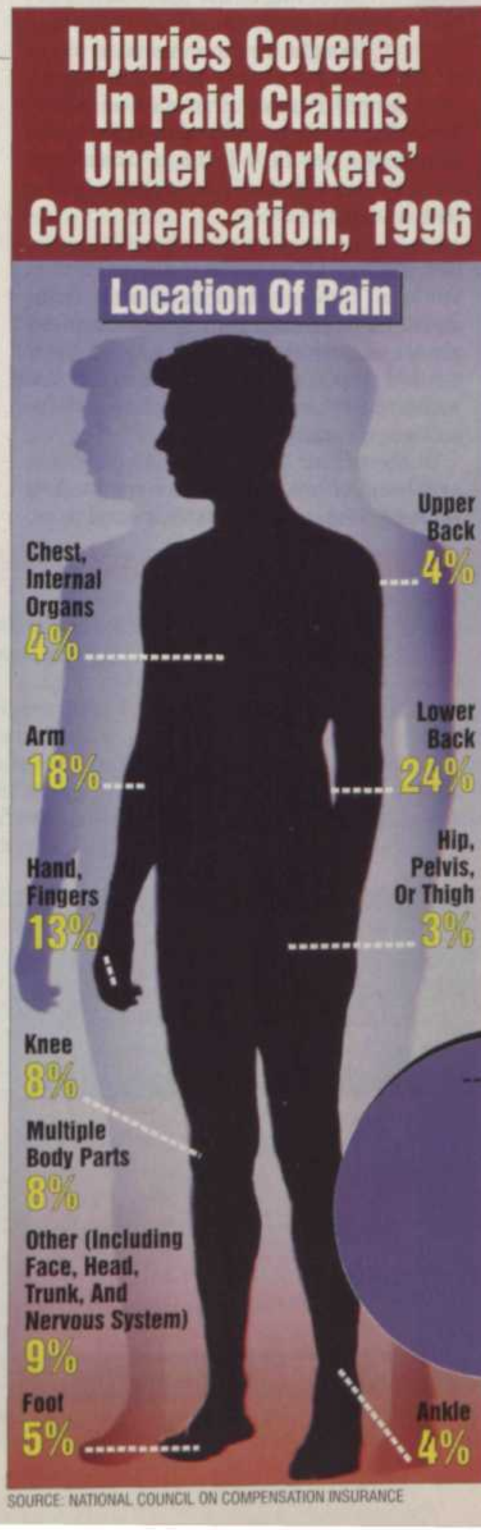
Fremont Compensation, on behalf of Cook-DuPage, then petitioned the Illinois workers' comp board to throw out the claim, allowing the insurer to lower the company's premium. This marked the first time an employer got the state board to purge a fraudulent claim from its workers' comp accident record immediately.

For Cook-DuPage, a local commuter service that Jans and his two brothers founded in 1975, the case "really sent a message" and paid off in a big way, Jans says. With 140 vans and 200 drivers, the company has had no suspicious workers' comp claims since 1995. It also is paying $250,000 less in annual workers' comp premiums than it was three years ago, largely because the fraudulent claims by the one driver were erased from its record.

As Jans can testify, a single incident of workers' comp fraud can have serious financial consequences for a small business. But his story also demonstrates that employers, insurance companies, and prosecutors—armed with stronger laws, new resources, and a tougher attitude—are fighting back successfully.

The crackdown on fraud is a major reason why workers' comp costs have been falling in recent years. (For details, see "A Crisis Past," Page 16.) The decline is especially remarkable because fraud in the workers' comp system is a huge and tangled problem that involves not only workers and employers but also doctors, lawyers, and others.

"There's no question that we've become more aggressive" at combating all types of workers' comp fraud, says Robert



SOURCE: NATIONAL COUNCIL ON COMPENSATION INSURANCE

O'Shaughnessy, a senior fraud investigator for The Hartford Insurance Group in Hartford, Conn., referring to both his company and the industry as a whole. "It's certainly more difficult to get away with fraud than it used to be."

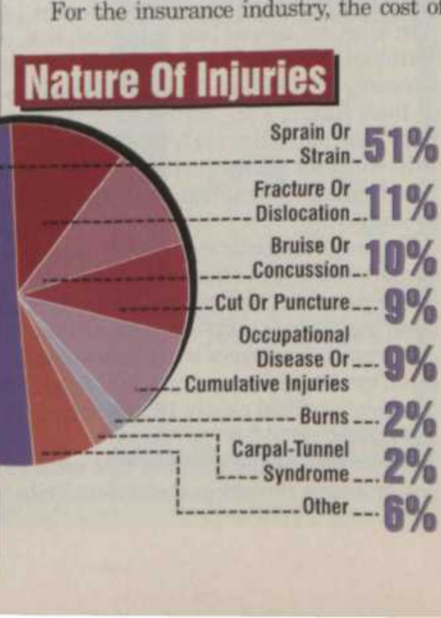
The True Costs Of Fraud

Although insurance fraud is sometimes called a "victimless" crime, it hurts a lot of people in many different ways. Honest workers with legitimate injuries often feel they are under suspicion by co-workers or managers just for using the workers' comp system as it was intended.

Fraud is also expensive. It raises businesses' insurance premiums, can reduce productivity, and can even threaten a company's survival. Other employees may be forced to pick up the slack of a malingering co-worker; jobs may have to go unfilled; pay raises or profit-sharing gains may suffer as revenue is lost. Insurers and law-enforcement agencies spend large sums to detect and fight fraud.

Ultimately, the costs of workers' comp fraud are passed on through increases in insurance premiums paid by the companies that must buy the coverage. The result is a huge—if not readily apparent—economic burden on employers.

For the insurance industry, the cost of



fraud in workers' comp claims is about $5 billion a year, according to estimates by the National Insurance Crime Bureau (NICB) in Palos Hills, Ill., an industry-financed anti-fraud organization, and by the Insurance Information Institute in New York City, a communications organization sponsored by the property and casualty insurance industry.

In fact, workers' comp in recent years has been the largest source of fraud within the property/casualty insurance sector, accounting for more than one-third of property/casualty fraud losses, according to a 1996 analysis by Conning Insurance Research and Publications in Hartford. (Workers' comp is classified as property/casualty insurance—not health insurance—because it provides commercial liability coverage.)

"Fraudulent claims in workers' compensation easily outstrip those in other lines of [the property/casualty] business," says the Conning report. (See the chart on Page 14.)

The FBI estimates there is fraud in 10 percent of all insurance claims; the Conning study concludes that the fraud level in workers' comp claims is nearly 25 percent.

Why is workers' comp fraud so pervasive? The short answer is because it's easy to commit and hard to detect.

Workers' comp is a unique and complex system that can vary significantly from state to state. There's no centralized reporting or collection of data, so it's impossible to monitor the U.S. system as a whole, let alone the individuals who may swindle it.

Also, only 32 of the 50 states have laws that define insurance fraud as a felony. That leaves more than one-third of the states without workers' comp fraud laws or with statutes that are either inadequate or ineffective for prosecuting workers' comp fraud, according to the Insurance Information Institute.

"I thought welfare was easy to rip off, but nothing is as easy as workers' comp," says Ranney Pageler, Fremont Compensation's vice president of fraud investigations, who helped put Cook-DuPage Transportation's problem driver behind bars. "It's a complicated system."

How Workers' Comp Works

Workers' compensation is a state-mandated, no-fault insurance system financed almost exclusively by employers. It pays medical expenses and a portion of lost wages to workers who suffer job-related injuries or illnesses.

Workers incur no out-of-pocket expenses, and benefits are not taxed. By providing workers' comp coverage to their employees, employers are shielded by law from having to defend themselves against liability lawsuits filed by workers injured on the job.

Workers' comp, established in 1908, was the first form of social insurance in the United States. Today, every state has its own program; the federal government covers most of its workers under the Federal Employees' Compensation Program. The states receive no federal funding.

Generally, the states require employers to buy workers' comp insurance or prove they can afford to pay workers' claims out of company funds—known as self-insuring.

Businesses typically buy workers' comp coverage from private insurers. In six "monopoly" states, however, employers are required to buy policies from the state's own insurance plan. Thirteen states have both state-run and private insurance plans.

The premium a company pays for its workers' comp policy is determined by three major factors: job classifications, which rate the risk of a specific job; the number of employees; and the firm's accident record.

Companies with high-risk jobs or frequent accidents pay more for workers' comp coverage than firms with low-risk jobs or good safety records. (See "Costly Numbers In Workers' Comp," September 1997.)

Part of what makes workers' comp unique also makes it easy to scam. In almost all states, the workers' comp system

A Crisis Past

In the 1980s, the workers' compensation system in the United States was drowning in red ink and on the edge of financial collapse.

But costs started coming down in the early 1990s, and in 1994—after 14 consecutive years of losses—workers' comp insurers returned to profitability. In the past few years, analysts say, workers' comp has become the most-improved sector in the insurance industry.

In a report issued late last year, the National Council on Compensation Insurance, the industry's clearinghouse in Boca Raton, Fla., stated, "For the first time since the early 1980s, the U.S. workers' compensation system is now financially stable and continues to improve."

The most dramatic evidence of the turnaround is that states and insurers in the past three or four years have been lowering their workers' comp premiums. As a result, employers' costs for workers' comp insurance as a percentage of payroll have declined nearly 16 percent since 1993.

Observers—while warning that serious problems remain in the system—cite several factors that contributed to the turnaround. Among them:

Stronger state laws. Under pressure from the insurance industry and the business community over the past decade, 32 states have enacted laws that classify insurance fraud as a felony, according to the Insurance Information Institute, an industry group in New York City.

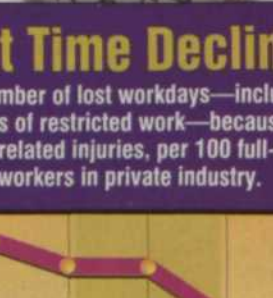
Yet 16 states do not define insurance fraud as a crime, and at least two others have statutes that are too vague to be effective, according to the institute.

Stronger enforcement. At the start of this year, 33 states had special anti-fraud bureaus or units, and three more states had new legislation to establish such units.

At least 20 states require insurers to forward all suspicious claims to their state's fraud bureau.

In addition, many states require insurance companies to have their own anti-fraud departments in order to be licensed to operate.

Prosecutions for insurance fraud have increased, and the number of insurance companies' special investigation units has grown.



Lost Time Declines

The number of lost workdays—including days of restricted work—because of job-related injuries, per 100 full-time workers in private industry.

SOURCE: U.S. BUREAU OF LABOR STATISTICS

stands apart from the civil- and criminal-justice systems, with its own rules, judicial proceedings, and regulatory process. And in most states, workers' comp is administered by multiple agencies, which may not communicate effectively with one another.

Moreover, as many employers have painfully discovered, workers' comp systems generally give the claimant the benefit of the doubt. This presumption, reflecting the no-fault nature of workers' comp, makes it easy for workers to commit fraud.

Insurance-industry observers say this worker-friendly bias helps explain the popularity of "soft-tissue" claims, such as back pain, muscle strain, or sprains that are virtually impossible for a doctor to detect or disprove. (See the chart on Page 15.)

An employer who tries to fight a workers' comp claim must abide by the system's unique procedures. Ignorance of workers' comp can lead to costly mistakes for any business owner who tries to take on the system. (See "Cooking Up A Workers' Comp Disaster," Page 18.)

There are various types of fraud for which employers bear the ultimate cost. Two in particular hurt business owners directly: claimant fraud and insurer fraud. Two others—premium fraud and provider fraud—may be less apparent but are costly nonetheless.

Claimant Fraud

When a worker fabricates or exaggerates an injury claim to get paid time off, it's claimant fraud. Although back injuries and pulled muscles are popular excuses, some workers concoct more-imaginative, even bizarre plots.

A notorious case of claimant fraud occurred in 1994 in Rockford, Ill., when a 24-year-old college student staged a robbery at a Kinko's store, where he worked the late-night shift alone. After violently ransacking the store, he had an accomplice shoot him through the shoulder to embellish the hoax. His story later unraveled when a perpetrator tipped off authorities.

"His intent was to claim a big workers' comp settlement that would pay for college," says Samantha VanDenburg, the special agent with the NICB who helped prosecute the case. "He filed with the [workers' comp] industrial commission immediately, at first for $50,000. He was mostly claiming pain and suffering."

The student eventually was convicted on theft charges, and his workers' comp claim was dropped.

A less dramatic case of claimant fraud occurred in 1995 at Barr-Miles Trucking Co., a Chicago firm with 50 employees. Co-owner Larry Barr says an employee tried to cover up a missed day at work by using forged physician reports to make a false claim that he had been hurt on the job.

Simply by following reporting procedures and demanding medical documentation, Barr helped insurance investigators expose the fraud. The worker was fired and pleaded guilty to forgery charges.

A more difficult workers' comp issue for Barr and other business owners is malingering, a practice in which a worker who may have sustained a legitimate injury stretches out the recovery time to extend or enlarge disability payments.

Malingering is a widespread problem in workers' comp. It's often hard to prove, and sometimes employers simply try to negotiate a financial settlement to close the case and get the absent worker off the payroll.

"The treachery is that you get a lot of [workers' comp] cases that aren't outright fraud but are deceitful and get turned into something bigger. It's tough to say the guy isn't hurt," says Barr.

Insurer Fraud

A type of workers' comp fraud that targets small firms in particular involves the scam artist who peddles cut-rate but nonexistent workers' comp policies and later absconds with the premiums.

The business owner gets a bogus certificate of insurance to file with the state but is left with no coverage once a claim is actually

Insurers' Fraud Patrol

Membership growth of the International Association of Special Investigation Units, a major organization of insurance-fraud investigators.

SOURCE: INTERNATIONAL ASSOCIATION OF SPECIAL INVESTIGATION UNITS

A safer workplace. The exploding costs of workers' comp insurance in the 1980s forced businesses to improve safety.

As a result, workplace fatalities, injuries, and illnesses have declined sharply.

The average number of workdays lost to job-related injuries declined by almost 13 percent in the four years through 1996—the latest year for which figures are available—according to the U.S. Bureau of Labor Statistics.

Managed care. Workers' comp has shared in the cost reductions attributed to the continuing shift to managed health care in recent years.

A similar development specific to workers' comp has been employers' and medical providers' aggressive use of case management, in which individual claims are monitored closely and efforts are made to accelerate an injured worker's return to work and prevent disputes.

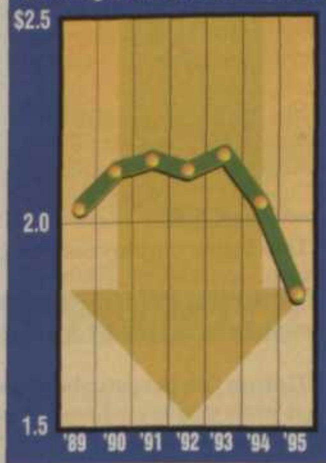
Insurance analysts warn, however, that the big savings from managed care are over and that workers' comp costs are likely to track the current upward turn in medical expenses generally.

Public attitudes. Massive advertising and education campaigns by the insurance industry have raised public awareness about the impact of fraud: Eighty-eight percent of Americans now recognize insurance fraud as a major problem that increases their premiums, according to a 1996 Gallup Poll.

Nonetheless, fraud is still tolerated by many. More than one in three Americans believe it is acceptable to overstate their insurance claims, according to a survey released in January by the Insurance Research Council of Wheaton, Ill.

Premiums Drop

Employers' Cost For Workers' Comp Coverage, Per $100 Of Payroll



SOURCE: NATIONAL ACADEMY OF SOCIAL INSURANCE

filed. Such outfits typically vanish when their obligations come due.

One example of such insurer fraud came to light in 1995, when the California Department of Insurance took action against a company accused of selling fraudulent workers' comp policies to more than 290 employers. Within two days, the agency's owner had reopened under a different name. He later fled to Texas. Eventually he was caught and convicted of a litany of federal crimes, according to the Coalition Against Insurance Fraud (CAIF), an insurance-industry group in Washington, D.C.

Premium Fraud

Businesses not only are victims of workers' comp fraud. Sometimes they commit it.

In premium fraud, dishonest business owners cheat their insurers to save on premiums. They deliberately misclassify their companies' jobs to hide the true risk of the work, or they conceal the number of employees on their payroll, or they change the names of their companies to hide a poor accident record.

While virtually any type of business can commit premium fraud, investigators say this problem is most pervasive in construction, trucking, and employee leasing, where firms act as independent suppliers of labor to a wide variety of businesses. Such companies may be tempted to try to save money by lying to their insurers, investigators say, because of the high premiums involved, the transient or multistate nature of the jobs, and the lack of strong regulatory oversight.

The largest case of premium fraud in Maryland involved the owner of an employee-leasing firm who was convicted of cheating the state's workers' comp fund out of $3.6 million by underreporting payroll and thus underpaying premiums, according to the CAIF; the firm supplied workers to roofing and trucking companies.

In some instances, workers' comp underwriters lose as much from premium fraud committed by employers as they do from claimant fraud committed by workers.

Provider Fraud

As the term implies, provider fraud is committed by health-care or legal professionals who provide services to injured work-

Cooking Up A Workers' Comp Disaster

When disputing workers' compensation claims, some employers seem to have a sure-fire recipe for disaster. Take it from labor lawyer Jane Eden, a partner with Eden, Tolins & Rafferty in Worcester, Mass. She represents injured employees in workers' comp disputes, and she says a lot of employers cook their own goose before legal proceedings ever begin.

Eden estimates that in her 14 years of practice, she has forced more than 2,000 companies and their insurers to pay contested workers' comp claims. Many employers defeat themselves, she says, through simple carelessness or ignorance about workers' comp.

Under the state-run workers' comp system, workers are entitled by law to medical and disability payments for work-related injuries. Employers contesting a claim as not legitimate or as unrelated to work wind up—in most states—before an administrative-law judge who arbitrates workers' comp disputes.

Each side must cover its own legal bills in these proceedings, although the labor lawyer's payment usually comes out of the workers' comp award.

If you want to lose a workers' comp dispute, says Eden, just make these mistakes:

Force an injured employee to continue working despite the injury. Eden says that as soon as the employee's complaint is disregarded, "it's over. You'll get a claim. And you'll lose."

She adds: "What you don't want to do is send the message, 'We don't care about you, and we won't help you.' All too often, that message is sent on the first day of injury."

Neglect the basics for warding off disputes. Eden says employers should report all accidents. Get employees involved in safety issues, she says. Have a safety plan in place, and be prepared if there's an accident.

If a worker perceives that the employer doesn't care about the

PHOTO: ERICK FRIEDMAN—BLACK STAR

Many employers *defeat themselves in workers' compensation disputes through carelessness or ignorance, says lawyer Jane Eden.*

Don't give employees any information about workers' comp. Even worse, Eden says, is lying about their benefits. With rare exceptions, employees have a legal right to workers' comp coverage, so don't try to hide it from them, she warns.

Harass the person about returning to work. Eden says that while employers have the right to monitor an injured worker's medical care, the "fit-for-work" decision is up to a doctor, not a manager. Most states prohibit employers from pressuring an injured employee to return to work.

injury or is trying to cheat the employee, she adds, the worker has "nowhere else to go but to a lawyer." Most of her clients call "because they're hurt, they're petrified that no one will help them, and they're terrified they will lose their jobs."

Eden readily acknowledges that there is fraud in the workers' comp system but insists that "the vast majority" of workers' injury claims are legitimate.

"Remember, these employees are human beings," she says. "The key to minimizing litigation is to treat the employee with respect."

ers. Like employer fraud, it is expensive and hard to detect.

Because the health-care system is so big, the opportunities for deceptive billing are also vast, which makes this the largest source of workers' comp fraud in some states.

Before California enacted comprehensive workers' comp reform legislation in 1994, hundreds of medical "comp mills" churned out millions of dollars' worth of fraudulent or padded workers' comp bills yearly.

One of the largest such cases drained at least $30 million a year from the state workers' comp system, according to the CAIF. It involved a doctor and several lawyers in Los Angeles who were accused of submitting fraudulent bills for medical treatments. They allegedly persuaded clients of state unemployment agencies to visit law offices and medical clinics run by the accused perpetrators, who then billed almost every workers' comp carrier in the state.

In some cases, fraudulent "providers" don't even bother to recruit injured workers; they simply obtain or fabricate workers' names or Social Security numbers and bombard workers' comp insurance companies with bills. Thus, it's crucial for insurance firms to have claims auditors who can detect and refuse payment of fraudulent workers' comp bills.

Provider fraud can be spotted easily by some small firms. Wayne Ruggiere, a partner in the Ohlert-Ruggiere Insurance Agency in Queens, N.Y., tells about "the case of the missing finger," involving one of his clients.

An employee cut himself, went to a doctor for treatment, and returned to work the same day with a few stitches. But the doctor's bill later diagnosed the injury as a partial amputation, declared the worker to be disabled, and charged almost $900 for "reconstruction" of the fingertip. "It was [a health-care provider] who misrepresented the injury," Ruggiere says. "It's a perfect example of misuse of the system."

In light of the huge losses and the complexity of workers' comp fraud, insurers have attacked it on several fronts. Among other things, they have been pushing hard to change state laws and public attitudes to make it easier to fight fraud. This is the goal of the CAIF.

And to improve coordination of the industry's legal efforts against fraud, most insurance companies support the NICB. It maintains a database of more than 350 million records of suspicious property/casualty claims, and it helps local prosecutors with criminal-fraud cases.

Insurance companies also have been creating special investigation units (SIUs) to pursue such fraud. A 1996 survey by Conning Insurance Research found that 75 percent of the top 250 property/casualty insurers in the United States had established in-house SIUs to fight fraud.

One measure of that investment is the 850 percent membership growth since 1990 of the International Association of Special Investigation Units. Based in Baltimore, it is the major professional group for insurance-fraud cops. (See the chart on Page 17.) "Prior to the formation of SIUs, there was no mechanism for insurance companies to combat insurance fraud," says John McHale, the association's president. "A lot of companies just paid it and passed it on to their customers."

By industry estimates, each dollar spent on SIUs returns $7 to $10 in savings through deterrence or restitution.

Although arrests for workers' comp fraud are clearly increasing, insurers are less interested in criminal prosecution than in saving money. In most instances, insurers will declare victory if they simply get a claim dismissed or dropped.

"Our main goal is to not pay fraud. If a prosecution happens, that's a bonus," says Jay S. Williams, vice president of corporate claims for CNA Insurance in Chicago and a former police detective. "Our main goal is to get the claimant off the [workers' comp disability] dole and back to work."

PHOTO: ©TOM SOBOLIK—BLACK STAR

High-tech cameras *are among the weapons used by insurance-fraud detectives such as Brian McCauley, but the techniques they employ can be decidedly mundane.*

Regardless of the type of fraud being investigated, the most important factor is documentation. Investigators say that without a paper trail, which starts with the employer, they quickly reach a dead end.

For employers, that means paying extremely careful attention to the "first report of injury," the form they are required by state law to file with their insurers when a work-related accident occurs. These reports establish the facts of an accident and can become the basis for prosecution if the employee's story changes.

How do insurance sleuths discover and prove fraud? It depends on the kind of fraud.

Uncovering Claimant Fraud

A fabricated claim is frequently the easiest type of workers' comp fraud to prove because it involves a purported injury that restricts an employee's physical abilities.

If fraud is suspected, as in the case of the Cook-DuPage driver, the proof often winds up on film or videotape showing the "injured" worker openly engaging in activities that vividly disprove the claim. Says James Feckey, director of the Minnesota Labor Department's Investigative Services Unit: "If a picture is worth a thousand words, video is worth a million."

Workers' comp fraud has been a gold mine for private detectives who are hired by insurance companies to secretly track and record suspects. Their primary tools are digital video minicameras and 35-mm still cameras fitted with high-powered lenses, used from inside nondescript vans or cars. Such cameras can capture detailed images from a block or more away.

Brian McCauley, owner of Power Investigations in Queens, N.Y., says some tech-

niques for combating fraud are not elaborate. He cites a case of a restaurant waiter who fell at work and filed a suspicious $1 million claim for a permanent back injury, saying he couldn't bend over.

"After [the suspect] left home one day, I put an empty bottle in his driveway and threw some change on the ground," McCauley recalls. "He came back, got out of his car without his cane, and we videotaped him bending down four or five times to pick up the things. He could bend forward, and we proved it." The claim was rejected.

Although video surveillance can raise privacy concerns and is not always successful, it is a powerful anti-fraud weapon when combined with proper documentation, specialists say.

"Virtually no fraud prosecution is successful unless you have surveillance," says Eugene Mattioni, a lawyer in Philadelphia who specializes in workers' comp cases. "If you're going to [prosecute], you have to go for the jugular."

Premium And Provider Fraud

Fraud involving employers or health-care providers is usually harder to prove because such paper crimes cannot be videotaped: Jobs are misclassified, workers are not reported, medical bills and treatment records are falsified.

Insurers typically uncover such fraud by using specialized computer-software programs that detect suspicious characteristics in an insurance application from an employer or a medical bill from a provider. Such techniques require highly trained auditors and claims adjusters and sophisticated computers. A red flag, insurers say, is the absence of documentation by a company.

When investigators suspect a business owner is hiding the true nature of the firm's jobs or the size of its work force on an insurance application, they turn to other useful sources of information: phone books, business directories, credit bureaus, news-

What You Can Do

Business owners can protect themselves against workers' compensation fraud by taking preventive measures, recognizing suspicious cases, and helping insurers combat it, industry specialists say. Here are tips from various sources, including Ranney Pageler, head of fraud investigations for the Fremont Compensation Insurance Group in Glendale, Calif., and from the National Insurance Crime Bureau, an industry-financed anti-fraud organization based in Palos Hills, Ill.

Preventing Fraud

■ Maintain a safe workplace. Eliminate "accidents waiting to happen." Enlist workers and your insurance agent to establish and improve safety procedures.

■ Screen job applicants, verify their statements on job applications, and check references. A person who lies on paper may lie on the job.

■ Give all new hires a written statement of your company's workers' comp policies and a separate statement about safety. Inform workers directly and indirectly that the cost of injuries affects the company's ability to compete. Display posters on fraud awareness.

■ Be wary of unknown or cut-rate insurers if you're switching to a new carrier. A workers' comp policy that sounds too good to be true probably is, especially if it is offered by an unfamiliar underwriter. Ask for references and check with the state insurance department.

■ Be honest with your insurance agent. Premium fraud by dishonest employers is as much an issue as claimant fraud by dishonest workers, some experts say. Don't be part of the problem.

PHOTO: OBART BARTHOLOMEW

Computer data *can help uncover workers' comp fraud, says Ranney Pageler of Fremont Compensation Insurance Group.*

Recognizing Fraud

While the following factors do not prove a case of claimant fraud, experts say, the presence of two or more indicates that fraud may be present:

■ The accident occurs late Friday afternoon and isn't reported until Monday morning, or it occurs early Monday morning.

■ No one saw the injury occur, the employee's own description does not logically support the cause of the injury, or the accident occurred in an area outside the employee's regular work area.

■ The reported accident occurred just before or after a strike, job termination, or layoff, or at the end of seasonal work.

■ The claimant's description of the accident conflicts with the facts in the initial report—the form describing the occurrence that employers are required to file with their insurers.

■ The employee delays reporting the claim without a reasonable explanation.

■ The employee has a history of numerous suspicious or litigated workers' comp claims.

■ The diagnosis is inconsistent with treatment, or the injured worker takes more time off than the injury seems to warrant.

■ The claimant refuses a diagnostic procedure to confirm the nature of an injury.

■ The claimant is hard to reach at home while allegedly disabled or has a history of frequently changing addresses, jobs, or physicians.

Fighting Fraud

Because claimant fraud is an insurance crime, prosecuting it is the job of the insurance company or law-enforcement authorities. But there are ways you can help your underwriter build an airtight case:

Document everything. Have your employees sign a workers' comp statement acknowledging that false injury or disability claims are a crime. (This can help rebut any contention that there was no "intent" to defraud.)

When an injury occurs, employers are required to give their insurers a detailed report, generally within 24 hours. Doing so is critical: Basic facts, detailed descriptions, witness statements, and sketches or photos of accident areas are powerful tools against workers' comp fraud, especially if the claimant later changes his or her story.

Keep your eyes and ears open. Carefully review the facts on claim applications. Review other accident records for similar injuries. Listen to your workers; they are more likely than employers to hear if a co-worker is malingering or lying about a disability.

Communicate regularly with injured workers, physicians, and your insurer's claims representative. If fraud is involved, close cooperation between employer and insurer is the only way to build strong evidence.

COVER STORY

paper or company advertisements, licensing and regulatory agencies, corporate directories, and, increasingly, online databases and the Internet.

Tom Corcoran, an investigator with the Fireman's Fund Insurance Co. of Elgin, Ill., says one business owner failed to disclose important information on the insurance application but disclosed it on the company's World Wide Web site.

Efforts For The Future

For the growing army of insurance auditors and examiners, progress against workers' comp fraud will depend on several developments now under way.

Foremost is the nation's continuing shift away from traditional fee-for-service health insurance to managed-care plans, which have reduced medical costs by controlling providers' rates and patient access to medical resources. For those reasons, managed care is becoming increasingly popular as the medical-treatment option offered by workers' comp insurance policies.

But health-care swindles account for the largest source of economic fraud in the United States, authorities say, and the shift to managed care is bringing with it new and complex types of billing fraud aimed at insurance companies.

In recognition of that problem, Congress provided the FBI with more than $500 million in the 1996 Health Insurance Portability and Accountability Act to finance a new assault on health-care fraud. The statute created a "federal health-care offense" that gives prosecutors new legal powers to deal with the problem.

The FBI is transferring or hiring nearly 500 agents to work for a newly created Health Care Fraud Unit to focus exclusively on that sector, the bureau says.

The new FBI presence is likely to help unmask and shut down health-insurance scams faster. It will also make insurance fraud in general a far bigger issue with the public and prosecutors, according to insurance-industry investigators.

Another important development scheduled to occur this year is the creation of a nationwide, centralized computer database of all workers' comp insurance claims. The aim is to allow companies to identify past perpetrators of fraud quickly and to check for warning signs such as aliases or multiple Social Security numbers. This planned "all-claims" database arose from the 1997 merger of two insurance-claims groups and the participation of the NICB.

A growing concern among fraud investigators, however, is President Clinton's proposed health-care "bill of rights," which includes a broad right to privacy regarding medical reports. Insurers are worried that any legislation in Congress to revise managed care may create privacy laws so restrictive that insurers would be prevented not only from using an all-claims database but also from sharing information they currently exchange.

Workers' Compensation Benchmarks

	National Average	Highest State Average	Lowest State Average
Cost Per Claim (Medical and Disability Costs)			
	$10,992	$18,878 (Louisiana)	$6,601 (Wisconsin)
Number Of Days Before Return To Work (By Employment Sector)			
Manufacturing	64	88 (Pennsylvania)	26 (Hawaii)
Construction	62	137 (Louisiana)	28 (Hawaii)
Office/Clerical	62	98 (Oklahoma)	30 (Hawaii)
Services	57	77 (Pennsylvania)	29 (Hawaii)
Other	59	105 (Montana)	37 (Louisiana)
Characteristics Of Injured Workers			
Age	37	39 (Montana)	34 (Utah)
Weekly Wage	$382	$464 (Connecticut)	$291 (Arkansas, South Dakota)
Gender	67% Male	74% (Illinois, Maryland)	58% (Washington, D.C.)
Married	70%	89% (Oregon)	50% (Alaska)

SOURCE: NATIONAL COUNCIL ON COMPENSATION INSURANCE, 1996

And finally, as states have clamped down on workers' comp fraud with tougher laws and as benefit payments have dropped, organized labor has been fighting back out of concern that such efforts will discourage or deny legitimate workers' comp claims.

Last year, a coalition composed of the AFL-CIO and trial attorneys persuaded Ohio voters in a statewide referendum to overturn a new law approved by the General Assembly to overhaul the state's workers' comp system. Organizers of the successful $3 million labor campaign called themselves the Committee to Stop Corporate Attacks on Injured Workers.

Given human nature and the complexity of the system, investigators acknowledge that fraud in workers' comp probably will never be eliminated. But they say it can be controlled.

"You'll never be able to fight fraud only through criminal prosecution," says Sally Narey, general counsel of the National Council on Compensation Insurance in Boca Raton, Fla., the insurance industry's centralized rating bureau. "You have to make people realize it's wrong and won't be tolerated."

Insurance investigators say employers can make a big difference by being alert for signs of fraud, informing employees about how fraud affects them, and thoroughly documenting every workplace injury or accident. (See "What You Can Do," Page 21.)

If you suspect a case of claims fraud, industry specialists say, call your insurance company and let its experts handle it. Tell your insurer "what your leads are," says Pageler of Fremont Compensation.

Pageler also says employers should not wait for a problem to occur before establishing an employee-education effort and that they should remind workers repeatedly how they can be hurt by workers' comp fraud. "If the employer can educate his work force, his work force will protect him, because fraud has such an impact on payroll and it can cost jobs," Pageler says.

Jans of Cook-DuPage Transportation, who worked with Fremont to resolve the company's claimant-fraud problem, agrees. Employers who believe they have a fraud situation, he says, should call their workers' comp carrier and be persistent until the carrier takes action.

Jans tells other employers that fighting fraud will pay off, although it isn't easy. "It'll take a little time, but it will benefit you," he says. "If the business owner isn't looking to improve the situation, nobody will." NB

To express your views on workers' comp fraud, see Where I Stand, Page 71.

To order a reprint of this story, see Page 58. For a fax copy, see Page 7.

Small Business Financial Adviser

A complex tax break for family businesses; leased vehicles get standard deduction; Clinton proposes tax on annuities; risky Internet-related investing.

Estate-Tax Break Is Tricky To Figure Out

By Joan Pryde

Farm owner Bob Pool figures his estate will be paying a lot less to Uncle Sam because of a special estate-tax break for family-owned businesses enacted as part of the Taxpayer Relief Act of 1997.

The tax break allows the owner of a qualified family business to exclude $1.3 million worth of assets from estate taxes beginning this year. The new exclusion is generous enough that Pool, 70, guesses his estate may escape federal estate taxes entirely. Now, Pool says he can rest assured that his 170-acre farm in Dakota County, Minn., won't have to be sold after his death to pay an estate-tax bill.

Pool acknowledges, however, that the tax law enacted Aug. 5 is so complicated that he had to consult estate-planning attorneys in order to be certain his estate will qualify for the special tax break.

The new estate-tax break is so laden with requirements that many family businesses may not qualify. To find out if you are eligible, you may need to hire an accountant or a tax attorney to read the fine print. Adam Wiensch, an attorney in the Milwaukee office of the Foley & Lardner law firm, says, "You spend a lot of time trying to determine which tests are met."

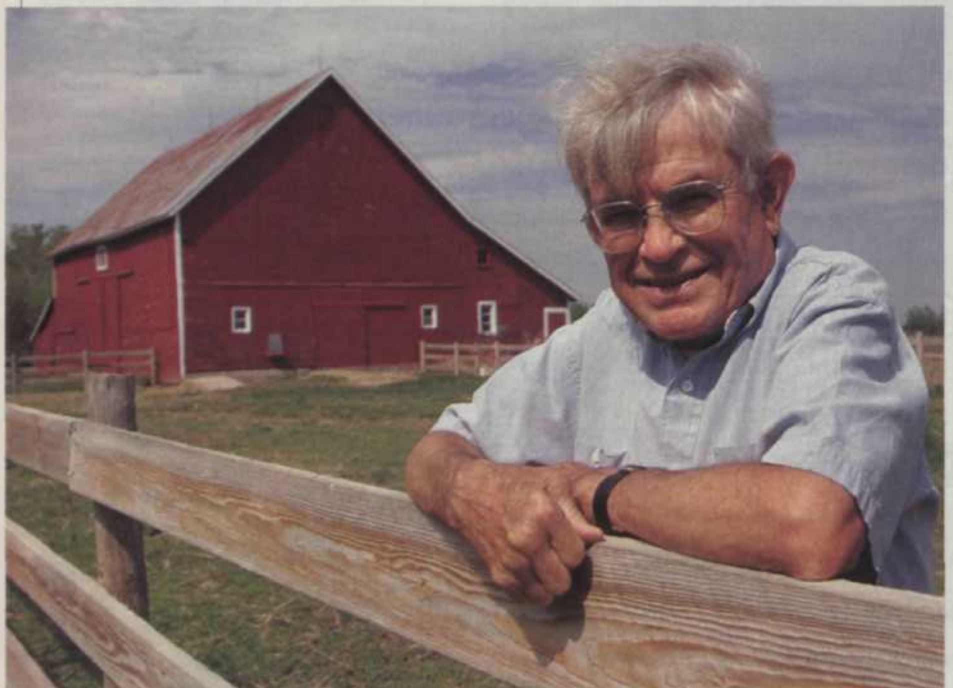


PHOTO: ©JOE ROSSI

Farm owner *Bob Pool says the new estate-tax break for family firms is so complex that he had to consult attorneys to be sure his 170 acres in Minnesota will qualify.*

Under prior law, each taxpayer was entitled to a $600,000 exemption, called the unified credit, from the estate tax. The 1997 tax act increases that amount to $1 million over nine years. For 1998, the exemption amount is $625,000; in 1999, it rises to $650,000, and it continues increasing in different increments until it reaches $1 million in 2006.

The tax law contains an additional estate-tax exemption—which declines as the unified credit rises—for closely held businesses. The exemption immediately brings a family-business owner's total exemption from the estate tax to $1.3 million. Thus, if you own a business and you die in 1998, your estate would get the standard exemption of $625,000 plus the new family-business exemption of $675,000 for a total of $1.3 million.

However, the total exemption remains $1.3 million, so that in 2006, when the standard exemption reaches $1 million, the business exemption for closely held businesses will be worth only $300,000.

A planning point for married business owners to remember is that the estate-tax exclusion can double to $2.6 million if the spouse's estate also qualifies. The spouse must own enough stock in the business to meet the statute's ownership threshold.

Think that's complicated? Try figuring out if your small business would be eligible for the special exclusion. Many qualifications must be met. Your estate can claim the special exclusion only if all of the following apply:

Your business is a "qualified family-owned business." That is, one family must own at least 50 percent of the business, or two families 70 percent, or three families 90 percent. However, if your family owns the business with one or two other families, at least 30 percent of the business must belong to your family.

The value of your business makes up more than 50 percent of your estate. So-called passive investments held by the business—securities, royalties, rental activities—don't count toward the value of your company. Neither does accumulated cash, over and above working capital.

That cash-related requirement worries some tax-planning experts. Business owners, they say, often have a legitimate need to have a lot of cash on hand.

You or a family member owned and were active in your business in at least five of the eight years leading up to your death. Under the law, family members include your parents, grandpar-

ents, spouse, children, grandchildren, nieces, nephews, and the spouses of your children and grandchildren.

Tax experts say it's important to remember that if you retire or become disabled in the eight years preceding your death, a family member must become involved in the business for your estate to qualify for the special exclusion.

At least one "qualified heir" participates in the business for a total of five years in the 10 years after your death. In addition to family members, qualified heirs can be employees who have worked for the business for at least 10 years before your death.

The post-death participation requirement may be the most problematic for businesses.

Your estate could qualify in every other way and receive the special exclusion for closely held businesses, but if your heirs sold the business within 10 years after your death, they would owe additional estate tax.

In effect, they would have to refund the tax break if they didn't meet the participation requirement.

Not For Everybody

With so many requirements, who should try to qualify for the break?

If the value of your business far exceeds $1.3 million, the amount of the tax break may be too small in relation to the size of the estate to bother trying to meet the requirements for the break.

But tax experts say they expect many very small businesses to benefit.

"If your business is worth $1 million or $1.5 million, this [tax break] is a big deal," says Ross Nager, a partner in the Houston office of accounting firm Arthur Andersen.

> "If your business is worth $1 million or $1.5 million, this [tax break] is a big deal."
>
> —Ross Nager, Arthur Andersen

For firms at that level of worth, the special estate-tax break will allow more families to hold on to their businesses, says Pool, whose farm has been in his family for more than 100 years. Pool used to grow corn and soybeans on the land himself but now rents the acreage.

He intends to pass the farm on to his four children. His estate planning involved dividing up his estate's assets with his wife so they could use the family-firm tax break to double their estate-tax exemption to $2.6 million.

"The old situation left an awful lot of businesses and farms in a bind, where many had to be sold to pay the taxes," he says.

Maintain Perspective

Nager, meanwhile, offers two pieces of advice to owners who believe they would qualify for the tax break. The first is to monitor your company's growth to see if the tax break continues to make sense for your business in years to come. "You need to see whether your estate has grown out of proportion to this exclusion. If so, perhaps other estate planning is needed," Nager says.

Nager also recommends that you not base all your business and estate planning on that one tax break. Instead, he says, you should weigh the relative value of the tax break against other legitimate business needs to determine whether it's worth meeting all the tax break's requirements.

Says Nager: "People need to carefully think it through, and given the complexities of estate planning in general, it makes sense to hire an adviser who is knowledgeable who can walk them through the traps." ■

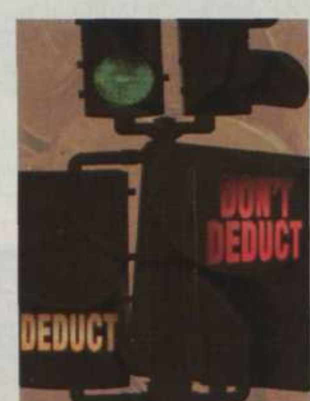
Joan Pryde is a finance writer in Washington, D.C.

TAXES

IRS Simplifies Auto Reimbursement

As of Jan. 1, business owners and employees who drive leased vehicles for business purposes can use the standard deduction of 32.5 cents per mile.

Previously, the mileage deduction was available only for cars that were owned. For leased vehicles, claiming a deduction required the calculation of actual mileage costs. These include fixed costs, such as depreciation or lease payments, and variable costs, such as gasoline, oil, maintenance, repairs, taxes, insurance, licenses, and registration fees.



"This is a major, positive step forward by the Internal Revenue Service in recognizing the increased trend of leasing vehicles," says Lawrence Snyder, director of government affairs with Runzheimer International, a management consulting firm in Rochester, Wis., that specializes in business travel.

"For small businesses, this move by the IRS makes things simpler," says Mary Lou Pier, a CPA who heads Chicago-based accounting firm Pier and Associates, Ltd., and chairs the small-business taxation committee of the American Institute of CPAs, based in New York City. "Now you may be able to choose between actual costs and the standard mileage rate," she says. She advises business owners to "run the numbers both ways to get the best possible deduction."

But using actual costs based on the fixed and variable rate is not easy. "The fixed and variable rate generally applies to businesses with 10 or more employees where you find there's [high] mileage for sales reps, service technicians, and others who drive a lot," says Michael J. Knight, president of Michael J. Knight & Co., an accounting firm in Fairfield, Conn.

A major factor in deciding how to treat your business's driving costs is the firm's method of reimbursing employees for expenses. If the firm reimburses for expenses as detailed on an expense account, it is what the IRS calls an "accountable" arrangement. Under an "unaccountable" plan, the employee receives a set amount periodically for expenses, and no accounting to the employer is required.

"As long as an employer reimbursement plan meets the criteria of an accountable plan," Knight says, "the reimbursement is not included in the employee's [or owner's] income, and the business gets a tax deduction."

On the other hand, if you're working with an unaccountable plan, Knight says, reimbursement for the use of your car for business will be considered income, although your business expenses can be deductible—with some restrictions—if you claim itemized deductions.

—Peter Weaver

The author is a free-lance business writer in Bethesda, Md.

TAXATION

Clinton's Annuity Plan Draws Fire

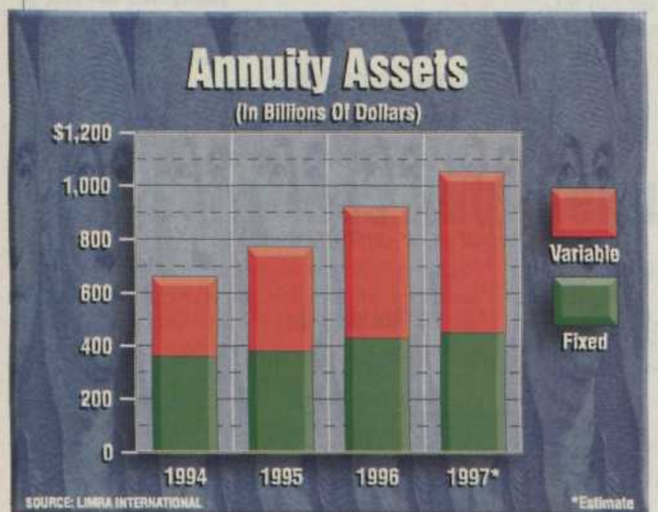
By Stephen Blakely

President Clinton's plan to impose new taxes on annuities and certain kinds of life insurance has come under fire from the insurance industry since the details were released on Feb. 2.

The tax plan is contained in the president's fiscal 1999 budget and would raise nearly $8 billion over five years, according to the budget document that Clinton submitted to Congress. More than half of that amount would come from new taxes on individual annuities.

While insurers were aware that the White House had been considering taxes on business life insurance, industry officials said they were surprised and incensed at the annuity-tax proposal in light of Clinton's stated goal of encouraging individuals to save more for retirement.

The American Council of Life Insurance (ACLI), the industry's largest trade group, attacked the proposed annuity tax in newspaper and radio advertising, saying it "makes no sense" and would be "counterproductive to the president's goal of helping Americans achieve retirement and family security."



Industry analysts say total annuity assets topped $1 trillion for the first time in 1997. (See the chart.)

Clinton's budget proposes the following four changes in the tax treatment of insurance:

A Tax On Annuity Earnings

The administration is proposing to tax annuity earnings whenever a policyholder exchanges a fixed annuity for a variable one (or vice versa) or reallocates assets in the investment accounts of a variable annuity.

An annuity is a tax-deferred retirement-savings product that provides a death benefit and investment options. Fixed annuities deliver a guaranteed rate of return. Variable annuities allow policyholders to invest in a wide range of stock and bond mutual funds.

Currently, earnings on annuity investments are not taxed until the policyholder begins drawing on the account in retirement (or after age 59½). Withdrawals are taxed as ordinary income.

Taxing annuity earnings before withdrawal, as the president's budget proposes, would generate an estimated $4.6 billion over five years, the budget estimates.

Business Life Insurance

Another of Clinton's proposals would affect business life insurance, also known as corporate-owned life insurance or key-person insurance. It provides tax-free income to a business so it can maintain normal operations following the death of a key person—defined as an owner or a partner. Many small firms borrow from their business life-insurance policies for company needs, and interest paid on such loans is a tax-deductible business expense.

Under Clinton's proposal, according to ACLI tax analysts, a company that owned a business life-insurance policy would be limited, in effect, in the amount of interest it could deduct for any business loan, even if the loan did not come from the business life policy.

Clinton's proposal, says the ACLI, would be an indirect way of raising taxes on companies that purchase business life coverage. The change would generate an estimated $2.2 billion over five years.

A Tax On Variable Life Insurance

Clinton proposes to tax the earnings on the underlying investments of variable life-insurance policies whenever a policyholder reallocates investments within the policy or exchanges the policy for a different type of life insurance.

Variable life insurance provides individuals with a tax-free death benefit that fluctuates in value based on the financial performance of the policy's underlying investments.

The new tax would generate an estimated $927 million over five years.

Cashing Out A Policy

The administration would restrict the ability of insurance policyholders to subtract the full amount of their premiums from any investment gains when cashing out a policy, as allowed under existing mortality formulas. This change would raise an estimated $100 million over five years from holders of annuity and insurance policies.

The administration stated that its rationale for all of the insurance proposals is that variable insurance contracts, such as variable annuities and variable life, "are used substantially as investment vehicles" and not as insurance products, according to the Treasury Department's "General Explanations of the Administration's Revenue Proposals," which accompanies the fiscal 1999 budget.

The explanation notes that the special tax-free treatment for insurance-policy exchanges "originated before people could direct the insurance company to invest in various mutual funds," when the only investment choices were between "economically similar" fixed-income accounts.

Because variable contracts that offer multiple mutual-fund options are "a significantly different investment" than traditional insurance products, the administration says, they should be treated like any other taxable investment.

But to insurers, "that just illustrates their lack of understanding of the product," says Jack Dolan, spokesman for the ACLI. Unlike regular mutual funds, he notes, variable annuities include a death benefit and insurance-related fees.

Insurance-industry analysts say the loss of tax-favored status probably would devastate sales of annuities, especially variable annuities. "It would definitely put a stop to the exchange of money going from one [variable-annuity] account to another, and it could have a big impact on the sale of new contracts," says Eric Sondergald, a research actuary for LIMRA International of Farmington, Conn., an insurance-research firm.

House Speaker Newt Gingrich, R-Ga., speaking Feb. 12 at the U.S. Chamber of Commerce, criticized the annuity-tax proposal as "anti-savings and anti-retirement," and he expressed strong opposition to any tax increase on retirement savings. ■

CHART AND ILLUSTRATIONS: GEORGIA LEIGH MCDONALD

INVESTING

Internet Stocks: Rags To Riches Or Vice Versa?

By Randy Myers

Five years ago, the Internet was a relatively obscure collection of computer networks used principally by scientists, academics, and computer hackers. Today, an estimated 100 million people worldwide use it to communicate with one another, gather information, and transact business, and the number is expected to double in two years.

Arguably the most important technological development since the computer itself, the Internet has made some of its most savvy innovators and their backers rich beyond their wildest dreams.

Ordinary investors haven't done too badly, either: The stock of online bookseller Amazon.com Inc., to cite just one example, tripled to $60 a share from $20 in the space of four months late last year.

The question investors are asking themselves, of course, is whether the Internet can still make big money for them.

The answer: Perhaps, if you are very smart—or very lucky—in choosing the right stocks.

"These are high-risk investments," warns Mary McCaffrey, an analyst who follows Internet software companies for Alex. Brown, a large, Baltimore-based investment bank that is now part of Bankers Trust, headquartered in New York City. "You have to be very careful with them, and you have to know what you're doing. They move in phases. Those that did well in 1997 were different than those that did well in 1996, and that could easily change again this year."

This uncertainty isn't surprising. Nobody knows exactly how big the Internet will become or which of its business models will succeed and which will fail. Most Internet companies launched so far are still unprofitable, making it difficult to value them by traditional Wall Street measures such as their stock-price-to-earnings ratio.

Fast Ride On A Browser

In short, investing in an Internet stock today usually means investing in an idea, not a track record.

Netscape Communications (stock symbol NSCP) illustrates the potential and the peril. The company was launched just four years ago with a software product called Netscape Navigator. The product became the first commercially popular Web browser—a type of software that lets you navigate the Internet easily.

Netscape made its initial public offering of stock on Aug. 9, 1995, at a price of $28 a share, then watched its shares soar as high as $174 within four months. Although Netscape now generates about $500 million in annual revenues, its stock price has backpedaled.

Following a 2-for-1 stock split effective in early 1996, it was trading in the mid-teens by February of this year (equivalent to about $35 a share before the split), pummeled by competition from software behemoth Microsoft Corp., which offers a competing Web browser called Internet Explorer.

The lesson of Netscape is that fortunes can be lost in Internet stocks as quickly as they can be made. But if that doesn't scare you —or, indeed, if it entices you—you can start your Internet investing adventures by learning more about the types of Internet companies available to you.

Some of the best-known Internet plays include Netscape and online service America Online Inc. (symbol AOL). Online services and Internet-service providers give you a gateway to the Internet by allowing your computer to dial into their "server" computers, charging you a monthly fee for that access.

America Online's stock has climbed past $100 a share from less than $5 a share since early 1993.

Engines And Retailers

While Netscape's shares have fallen on hard times, some of the hottest Internet stocks of 1997 were still doing well in early 1998. These are the search-engine companies, or what McCaffrey calls "media aggregators"—firms whose software products allow users to search for information on the Internet rather than merely "browse" it.

They generate their revenues by charging advertisers and merchandisers to provide links to their Internet sites. The biggest independent players in the market include Yahoo! Inc. (YHOO), Excite Inc. (XCIT), Lycos Inc. (LCOS), and InfoSeek Corp. (SEEK).

Another distinct group of Internet stocks consists of online retailers, such as bookseller Amazon.com (AMZN) and consumer-products auctioneer OnSale Inc. (ONSL).

Winners And Losers

A broker can give you more information about these companies, or you can go online and check out their products yourself and visit their Web sites for additional information.

Once you've found several Internet stocks that you like, hedge your bets by investing a little in each, if you can. That way, your winners' gains may exceed your losers' losses.

To play it even safer, you might consider investing in established companies that offer exposure to the phenomenal growth of the Internet but aren't totally reliant on it.

Examples would include Microsoft (MSFT); retailer Barnes & Noble (BKS), which has launched an online operation to supplement its traditional bookstores; and media conglomerate Time Warner (TWX), which has begun to offer Internet access over speedy cable-television systems.

While investing in the Internet can be dicey, the international computer network is a growth market the likes of which will be hard to find anywhere else in the years ahead. So happy hunting, and be careful out there. NB

Randy Myers, formerly a writer and editor for Dow Jones & Co., Inc., is a financial writer in Dover, Pa.

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TAXES

Keeping Track Of Tip Income

The IRS is widening its program for getting firms to police the tax-reporting practices of employees whose income includes tips.

By Joan Pryde

Hugo Gasc has worked diligently for two years to make sure the waiters, waitresses, and busboys at his Casa Napoli restaurant in Falmouth, Maine, tell him regularly how much they've received in tips.

As Gasc sees it, collecting the information has been well worth the work. The Internal Revenue Service has told Gasc that it likes his tip-reporting system and has promised him in writing that no auditors will show up at his business to conduct a tip audit as long as he keeps the system in place.

"I have peace of mind," he says. "I put in 16-hour days, and the last thing I want to do is lose sleep" worrying about whether his restaurant is reporting its employees' tip income correctly to the IRS.

Gasc is one of more than 5,000 business owners participating in a program that the IRS started in 1993 to combat underreporting of tip income.

Because the IRS found it could not crack down on the hundreds of thousands of employees in a number of industries who had been neglecting to report tip income, officials say, the agency decided to get employers to police their employees' tip-reporting practices.

The IRS's Tip Rate Determination/Education Program initially targeted businesses in the food-and-beverage industry; last year it was broadened to cover the hair-styling and gaming industries. This year or next, the IRS says, the program will be expanded to include all industries with tipped employees. Such workers include taxi drivers, skycaps at airports, parking-lot attendants, and pizza deliverers.

If you own a business and your employees receive tips, the IRS is going to hold you responsible for making sure that those workers are giving an accurate accounting of their tip income and paying the appropriate taxes on that income.

Firms that don't comply are subject to audit and possible notices of deficiency in their tax payments.

How Tips Come Into Play

Tips make up a major portion of a worker's income in many types of businesses, such as restaurants and hair salons.

Tips are important to employers, too. Although the federal minimum wage is $5.15 an hour, federal law permits a business owner to pay workers as little as $2.13 an hour if the employees' tip income raises their average hourly pay to $5.15 or more.

Even though employees don't receive their tips from the employer, their tip income is subject to federal income tax and to the 15.3 percent federal payroll tax—half paid by the employer, half by the employee.

An employer who fails to withhold taxes from employees' tip amounts and does not pay the required portion of the payroll tax to the federal government is in violation of the law.

If an employee receives less than $20 in tips in a calendar month, that amount need not be reported to the employer and is not subject to withholding, but it must be included by the employee in total income for federal tax purposes for the year.

Under the program, the IRS offers two types of agreements that business owners can sign to ensure they are complying with the law:

Tip Rate Determination Agreement: Under a TRDA, the IRS works with the owner to arrive at a tip rate for the business's employees. Then, at least 75 percent of the workers must pledge in writing to report tips at the agreed-upon rate. If they fail to report as they've pledged, the employer is required to turn them in to the IRS. If an employer does not comply, the agreement is rescinded and the business becomes subject to IRS auditing.

Tip Reporting Alternative Commitment: TRAC is less strict but requires

PHOTO: ©DEAN ABRAMSON

An arrangement *with the Internal Revenue Service under which Hugo Gasc collects tip-receipt information from his restaurant employees has given him peace of mind, he says.*

more work by the business owner. It does not mandate establishment of a tip rate but requires the owner to work with employees to make sure they understand their tip-reporting obligations.

The owner must establish procedures to receive reports on cash tips from employees and inform them of the tips the employer is recording from credit-card receipts.

A business owner who signs a TRAC or a TRDA receives a commitment from the IRS that the agency will not examine the owner's books to search for underwithheld or underpaid payroll taxes on tip income—as long as the owner lives up to his or her part of the agreement.

Complaints From Restaurateurs

Cracking down on underreporting of tip income appears to be a gold mine for the IRS. Since the compliance program began in 1993, the amount of tips that food-and-beverage workers are reporting—and paying taxes on—has gone up more than $2 billion overall, says Thomas Burger, the IRS's director of employment-tax administration and compliance.

So far, nearly 5,700 TRAC agreements have been signed, covering about 27,000 food-and-beverage establishments. There have been about 1,000 TRDA agreements, covering 2,300 establishments.

Restaurant owners, however, have decidedly mixed feelings about the compliance effort, says Mark Gorman, a lobbyist with the National Council of Chain Restaurants, a trade group based in Washington, D.C. "Some businesses have been pretty pleased with it because they feel it's gotten the IRS out of their business, but others have had trouble getting employees to report their tips."

Still other business owners have been threatened with audits if they did not sign a TRAC agreement, Gorman says. That complaint is echoed by many other restaurant-industry executives.

PHOTO: ©JEFF LAWRENCE

Monitoring *and educating employees on tip reporting has been a burden, says restaurant manager Lisa Violi, with waiter Jeff Moore.*

Burger says that IRS agents have never coerced business owners into participating in the program. But at least some members of Congress are taking the industry's concerns seriously: The House's version of IRS-restructuring legislation, approved in November, includes a provision that would prohibit the agency from threatening audits to get business owners to sign a TRAC or a TRDA agreement.

The Senate is expected to take action on IRS restructuring soon. It was uncertain at press time if the tip-reporting provision would be included in any measure the Senate may approve.

Keeping TRAC On Track

Gasc approached the IRS voluntarily. "I read about TRAC and felt it was something I should do" to guarantee that his business was above reproach on tax reporting, he says. He contacted his local IRS office in 1995; officials there offered him a TRAC agreement, and he signed it enthusiastically.

The agreement requires Gasc, who has six or seven tipped employees working during any given shift, to provide each worker with a written statement, at least monthly, showing the amount of credit-card tips attributed to the employee. Gasc also has to keep records showing the amount of cash tips each employee has received—information the employee has to supply him.

In addition, Gasc has to educate new hires about their tip-reporting obligations under the law. And he has to remind his employees of those obligations at least every quarter.

Getting Help From The IRS

The Internal Revenue Service offers a number of resources to help employers make sure their tipped workers understand and comply with the rules on reporting tip income. For free copies of the publications listed below, call the IRS's Forms Distribution Center at 1-800-829-3676.

■ *Publication 531, Reporting Tip Income* describes the employee's tip-reporting obligations under the law.

■ *Publication 1244, Employee's Daily Record of Tips and Report to Employer* contains two forms that are designed to help employees record and report tip income.

The first, Form 4070-A, "Employee's Daily Record of Tips," can be used by an employee to keep track of tips received in cash.

The second, Form 4070, "Report to Employer," can be used by the employee to make periodic reports to the employer regarding tips received.

Employers and employees do not send these forms to the IRS but keep them for their own records.

■ *Tips on Tips* is a brochure for employers in the food-and-beverage industry that describes the Tip Reporting Alternative Commitment (TRAC) and the Tip Rate Determination Agreement. It contains a sample TRAC agreement and explains how a business owner can apply to the IRS to enter into such an agreement.

■ "Reporting Tip Income: On TRAC" is a 16½-minute video that employers can obtain free by calling a local IRS office. They can use the video to help their workers understand their tip-reporting obligations.

The video covers subjects such as why employees must pay taxes on tips, how to report tips, and what penalties an employee might incur if he or she does not report tip income properly.

Gasc says he threw himself into the task and has gone beyond the IRS's requirements. He has each worker turn in a report at the end of each shift showing the amount of tips received in cash, and he reviews credit-card slips so he can tell each employee the amount of tips earned in that manner.

The IRS requires tip income to be reported monthly on a special form. Gasc, however, produces a weekly computer spreadsheet for his own records, detailing each worker's tip income. "I work very hard at tracking" the restaurant's receipts and tips, Gasc says. "Every penny of those tips is being tracked by us."

More Work For Some Employers

Not all restaurateurs are singing the IRS program's praises. Lisa Violi, manager of Skilligalee, a restaurant in Richmond, Va., says educating and monitoring her 35 tipped employees on their tip-reporting responsibilities has been a hassle.

In fact, Violi says she felt pressured into signing a TRAC agreement by IRS agents in 1996. They had examined the restaurant's books and determined that Skilligalee employees had underreported tips during the previous six months.

According to Violi, the IRS said that if she did not sign a TRAC agreement, the agency could examine Skilligalee's books going back eight years. "We felt we didn't have a choice in the matter," she says. "Who wants to go through a huge audit way back to 1988?"

Now, Violi's tipped employees give her weekly reports showing how much they received in cash tips, and she monitors credit-card tips.

As the agreement requires, Violi also has to keep her employees educated about reporting requirements. New hires watch a video on tip reporting that Violi obtained from the IRS. She sends her workers quarterly memos to remind them of their tip-reporting responsibilities.

"I think it's put a lot more of a burden on us in terms of paperwork, and it's hard to get compliance from a lot of your employees," Violi says of the TRAC agreement.

Staying Ahead Of The IRS

Tax experts say that if your business involves tipping, you should be aware of your legal obligations and do your best to comply to avoid tangling with the IRS.

If your business is in the food-and-beverage industry, you should evaluate TRAC and TRDA to see which one is right for you, according to accountants and tax attorneys. The same advice holds true for business owners in the hairstyling and gaming industries, on which the IRS has recently begun to focus.

Owners don't necessarily have to sign either agreement, however, if they already have their own tip-reporting system and are confident it works, experts say. But some entrepreneurs may decide that signing a TRAC or a TRDA would be worth any headaches it might entail because the agreement comes with the IRS's promise to forgo a tip audit of their businesses.

If your business is not in one of the three targeted industries but employs workers who receive tips, TRAC and TRDA won't be available to you until the IRS develops its generic agreement for all industries with tipped employees. And that could take an additional year or two, according to tax specialists.

Can you ignore tip reporting in the interim?

No, say tax experts; don't wait for IRS agents to come calling before you do something about tips. "We tell this to every client: It's better to comply with the law now and do it properly" to avoid the possibility of a tip audit down the road, says Jim Kelly, vice president of technical analysis for Triple Check Income Tax Service, based in Montrose, Calif.

For help in understanding how to comply, the IRS's Burger recommends that you contact the nearest IRS "tip coordinator." There's a person so designated in each of the agency's 33 district offices around the country. The tip coordinator can explain employer obligations under the law and give you publications and forms that can help you develop a tip-reporting system for your employees. (See "Getting Help From The IRS," Page 32.)

Convincing some business owners to comply with tip-reporting rules can be an uphill battle, tax professionals say. "As much as I preach" to clients about the legal requirements, "there's still a lot of tipping that goes unreported, and it drives me crazy," says Mary Lou Pier, president of Pier and Associates, Ltd., an accounting firm in Chicago.

Tip reporting may be easy for employers to overlook—but not for the IRS. The agency's compliance program has been lucrative, and it's here to stay. Business owners need to know that "this is not something the IRS is going to walk away from," says Burger. "There are just too many dollars out there." NB

Joan Pryde is a finance writer in Washington, D.C.

MANAGING

Putting A Lid On Conflicts

You want your business to sizzle—but not to boil over with internal battles. Here's how to strike a balance.

By Michael Barrier

It's the horrific stories of workplace violence that catch your eye—the postal worker who murders his colleagues, or the fired employee who returns to kill the boss he blames. For many small businesses, however, the danger is not from that kind of extreme violence, but from lower levels of internal conflict. A company can be slowly poisoned by anger and hostility.

"In large companies," says Dennis A. Davis, a San Diego consultant and the author of *Threats Pending, Fuses Burning: Managing Workplace Violence* (Davies-Black Publishing, $27.95), "it is possible to still be anonymous except to those people who work immediately around you. In a small company, that just isn't possible.

"The presence of conflict and tension in a small company, even if it's just between two individuals, has much larger ramifications for the company as a whole. You can't avoid knowing what's going on in a small company."

When Donna Stringer and a business partner started a Seattle-based training company, Executive Diversity Services (EDS), in 1989, they tried to head off internal conflicts by deciding what "core behaviors" they wanted from their employees before the company ever opened its doors.

Only four people—Stringer, her partner, and two other consultants—worked at EDS then, and the company is still small. It has only seven full-time staff members, along with dozens of trainers who work as independent contractors in other cities. But even so manageable a growth rate became an incubator for conflict.

As the company grew and began to serve larger clients, Stringer says, its owners failed to re-examine those "core expectations" and say, "Are they still serving us?"—even though growth meant that "people had to do different kinds of things in different ways."

As EDS added people—a business manager, a client-services manager, a marketing manager—to the original four, Stringer says, "the four of us continued acting the way we used to act. If the phone rings and it's a potential marketing contact, you handle it. If a client wants some material modified, you do it. So the four of us were getting in the way of other people doing the things they'd been hired to do.

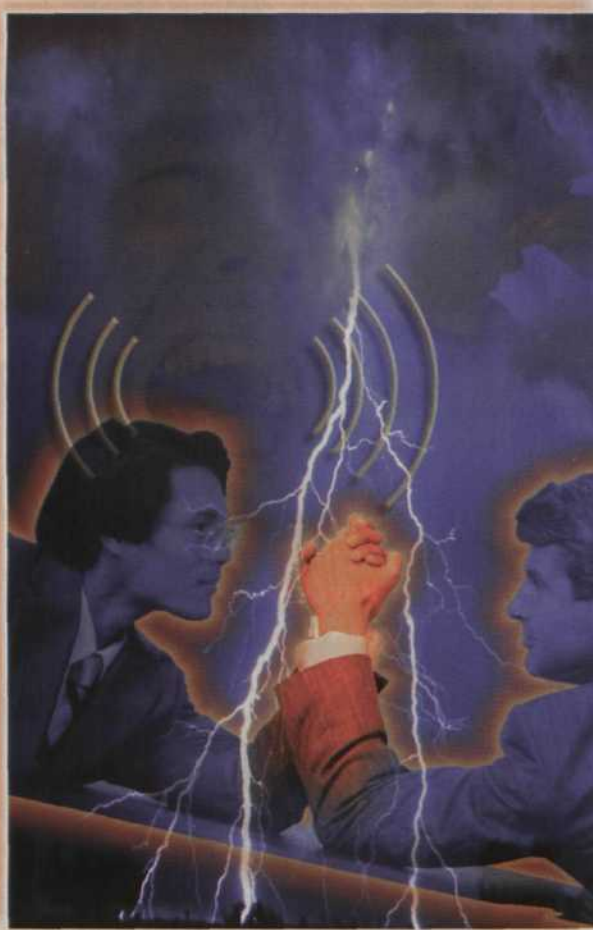

PHOTO ILLUSTRATION: GEORGIA LEIGH MCDONALD

"Scheduling was a big issue," she continues. "The phone rings, somebody wants training on a certain day, and I look at the calendar and say, 'Sure, that day's free, we'll schedule you in there.' What I don't know is that the business manager is on the phone talking to somebody else [about training on the same date], and it's her responsibility to schedule. So I just screwed up."

It's hard, though, to tell the president of the company that she has just made a mess of things. "What you do," Stringer says, "is fuss and fume and talk to somebody else about it, and pretty soon everybody's all riled up."

Such conflict among the people working in a small firm can be insidious because business owners and managers recoil from doing what's needed to control it. "Entrepreneurs have to be very task-focused, goal-oriented," says Charles E. Labig, a Chicago-based corporate psychologist and the author of *Preventing Violence in the Workplace* (AMACOM, $24.95). "That set of skills tends not to go along with human-relations skills."

Says Stringer: "The top two things that managers tell us they don't want to deal with are conflict resolution and performance evaluation—and they don't like performance evaluation because it can cause conflict."

Fortunately, there are some relatively simple steps that a small-business owner can take to keep conflict under control. Among them:

Manage conflict—don't suppress it. Small-business owners and managers should regard conflict not as an evil to be eliminated, the experts suggest, but as an inevitable phenomenon to be managed to the company's benefit.

"Good management brings out differences of opinion, to see all sides and come to the best decision," says Labig, who worked in Boston for a dozen years as an independent consultant to family-owned businesses and partnerships. Daniel S. Hanson, author of *Cultivating Common Ground: Releasing the Power of Relationships at Work* (Butterworth-Heinemann, $17.95), calls conflict "an opportunity to gain knowledge."

Even though EDS is itself a training organization, it now tries to bring conflicts to the surface by calling in outside trainers twice a year. "Every time we bring somebody in to do some teamwork with us or communications work with us," Stringer says, "we discover something else that one

of us has been troubled by and hasn't necessarily been talking about."

Training is hardly a cure-all, however. "Intuitively," Hanson says, "as a manager, I think you know if a group is stuck in deep, bad conflict or they're just having difficulty working on surface issues." In the latter case, formal training may be overkill, and an honest group discussion is all that's needed.

> **In rejecting others' ideas, "how it's done is more significant than what's done."**
>
> —Consultant Dennis A. Davis

Whatever you do, don't try to suppress conflict by discouraging expressions of disagreement. What usually happens when companies try to suppress conflict, Hanson says, "is that it comes out in odd places and in odd ways—as workplace violence if it gets really bad, or as unproductive activity behind the scenes," such as constant griping.

Establish clear rules governing conflicts. As Labig says, "It's the job of senior management to create the environment of an organization"—and that job includes laying down rules governing disagreements. "That means you have rules for how you treat each other; you have rules about listening, about being respectful, and about trying to appreciate the differences in style and perspective."

Supervisors must be "very clear" about the behavior they expect, Stringer says, adopting a "preventive strategy" that entails "identifying as clearly and overtly as possible what behaviors will and will not be tolerated in the work environment."

Such rules should mandate "a focus on the issue and not on the person," says San Diego consultant Davis. The rules should mark out prohibited behaviors, including violence and threats of violence, but they also "should encourage the resolution of conflict through discussion."

One small example of a successful rule: Hanson, an executive of Land O'Lakes Inc. in Arden Hills, Minn., works with a team of six executives, and, he says, "we say that we will not attack someone until we have repeated what they've said to their satisfaction." Disagreement is thus focused clearly on the other person's position.

Even though employers should write the rules, they should be open to changing those rules in response to employee feedback. "What's important," Hanson says, "is to get to the point where the entire group has some input into what the codes of behavior are."

American workers demand not the freedom to do whatever they wish, Davis says, but the courtesy of explanations for what they are required to do.

Make your own behavior a model. Setting clear rules isn't enough; it's just as important that you obey them. "Where you get into problems is when senior management doesn't live by its own rules," Labig says.

If a boss tells employees to treat one another with respect but treats them with obvious contempt, employees will ignore the words and follow the example. "How the owner models behavior is a critical element," Labig says. "If I run the business and I beat up somebody emotionally in front of everybody else, you're going to see that ripple through the whole company."

You may want someone to tug on your sleeve when you need reminding of your obligation to set an example. "A lot of smart entrepreneurs have someone working with them, either within the organization or as a mentor or a coach, to help them deal with the interpersonal side," says Hanson.

Avoid ending up with winners and losers. Resolving disagreements, Stringer suggests, shouldn't be a matter of "figuring out who's right and who's wrong" but of deciding which outcome "is going to most effectively serve the business."

Inevitably, though, if an employee's point of view does not prevail—if in particular you as a boss reject the employee's idea—the employee will feel like a loser. But what is likely to matter most to the employee, Davis says, is not that he or she lost "but that you were respectful and courteous, and it seemed that [the employee's] opinion counted for something. That's what's crucial. How it's done is more significant than what's done."

Labig agrees: "The human factor is critical. It's not just getting to a decision; it's helping the group form the kind of team that is going to maximize profitability for the company."

As Davis puts it, the way to manage conflict well is to bring each employee around "to genuinely caring about what's best for the company, even if my idea isn't it." NB

ENTERPRISE

Raking In The Blue Chips

For this year's national Blue Chip Enterprise honorees, daunting challenges are simply the raw material for triumph.

By Michael Barrier

They work in very different worlds—one surrounded by bright colors, another in perpetual darkness; one amid crushed fenders, another where the air is scented by freshly cut wood—but they share one thing: They have met uncommon challenges with uncommon energy and ingenuity.

They are the entrepreneurs who head the four companies chosen as national Blue Chip Enterprises in the annual competition co-sponsored by Massachusetts Mutual Life Insurance Co. (known as MassMutual—The Blue Chip Company), the U.S. Chamber of Commerce, *Nation's Business*, and "First Business," the Chamber's half-hour morning business-news television program sponsored by MassMutual.

The national Blue Chip Enterprises were chosen from among 168 companies named earlier this year as Blue Chip Enterprises. (For a complete list of companies honored nationwide, see the March issue of *Nation's Business*.) This year's national designees are:

- Candy Bouquet International, Inc., of Little Rock, Ark.
- Narrative Television Network of Tulsa, Okla.
- Three-C Body Shop Inc. of Columbus, Ohio.
- American Hardwood Co. of Gardena, Calif.

Here are their stories.

PHOTO: ©WESLEY HITT

New franchisees *of Candy Bouquet International spend a week at the company's Little Rock, Ark., headquarters learning 10 basic designs, with the help of owner Margaret McEntire, left, and trainer Patti Jacuzzi, standing right.*

Candy Bouquet International

One key to business success, Margaret McEntire suggests, is to give away your merchandise.

Months before she opened a tiny retail store in the vestibule of a Little Rock bank in 1992, she gave away dozens of free samples to merchants in the Pulaski Heights shopping area—restaurants, doctors' offices, beauty shops, dry cleaners, "everywhere the middle-aged housewife goes during the day," she says. "They're going to see it, think it's a neat idea, pick up that business card, and call you."

McEntire was giving away bouquets whose "blossoms" were not flowers but candies. "No one ever turned me down," she says of the local businesses that took her free samples. When a bouquet had been devoured, she would provide another one.

That was only an opening move in what has turned out to be a winning strategy. McEntire began offering Candy Bouquet franchises in 1993, and her company, Candy Bouquet International, now has more than 250 franchisees. Last year's sales volume for the chain was $26 million, up from $14 million in 1996.

McEntire, 45, started her business at home, and around 20 percent of her franchisees are home-based. "It makes us have a great success rate [only two franchisees have failed outright] because they can start out" with an investment as low as $7,000, she says, "and then gradually work into big stores."

McEntire was making candy bouquets in her garage, "kind of for fun," she says, when "friends started saying they wanted them." She quickly realized that she had a potentially viable business on her hands.

Her first Candy Bouquet store opened not in Little Rock but in Houston in 1989; one of her sorority sisters from the University of Arkansas opened it, as an equal partner. McEntire knows better now, but at that time she feared that Little Rock might be too small a market. (There are now seven franchises in the Little Rock area.)

The Houston store was doing "dynamite business," McEntire says, but then her friend's husband lost his job and the couple decided to leave Houston; she called McEntire around the end of 1991 and said she was closing the store.

McEntire's husband, Jay, was suffering business reverses himself—he was drilling for oil and gas at a time when the energy industry was sagging. "We were at a low ebb," McEntire says.

McEntire had continued to make bouquets in her garage even while the Houston store was open, and she kept doing so after that store closed. She opened her Little


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Rock shop in August 1992, after her business had grown to the point that the bouquets "had started taking over the house," she says. Her first space was only 90 square feet, but she squeezed in 45 bouquets.

She had put plans for franchising on hold after the Houston store closed. Within a few months of the Little Rock store's opening, though, she had decided to take that plunge.

The McEntires drew up their franchise documents and shepherded them through the various state governments, over the course of a year, without ever enlisting an attorney's help. Candy Bouquet was registered in all the states by late 1993, and franchising has since proceeded at an accelerating pace, with franchises now as far afield as Malaysia and the Persian Gulf.

Candy Bouquet's franchisees don't pay royalties. They pay an initial franchise fee, but after that they pay only a monthly "association fee" of $35 to $200—just enough to cover her overhead, McEntire says.

Her profit thus must come from her warehouse—an incentive not only to keep her prices competitive, she says, but also to find exclusive products, including even the wire that holds the bouquets together, which was "invented just for us."

Because she doesn't charge royalties, McEntire says, "I'm not making as much money as most [franchisors]. Not anywhere near. But I'm looking on down the road." For one thing, she says, she has a very open relationship with her franchisees: "They share ideas with us."

Thanks in part to the free flow of ideas, the bouquets themselves have changed a lot. Her earliest bouquets were puny compared with the current productions, McEntire says; the first ones were much shorter, and decorated with "junk candy" instead of the private-label candies and chocolate rosebuds that her franchisees use now.

New franchisees spend a week in Little Rock learning how to make 10 basic designs, but otherwise there's "a lot of freedom of design," she says.

McEntire is shooting for 1,000 franchises by 2000, and she relishes the thought of the challenges that such growth would bring to what is still a very small company, with only a half-dozen full-time employees. "I'm a very active person," she says. "I can't sit still. Jay says I'm like an old mule—I'm either moving or I'm sleeping."

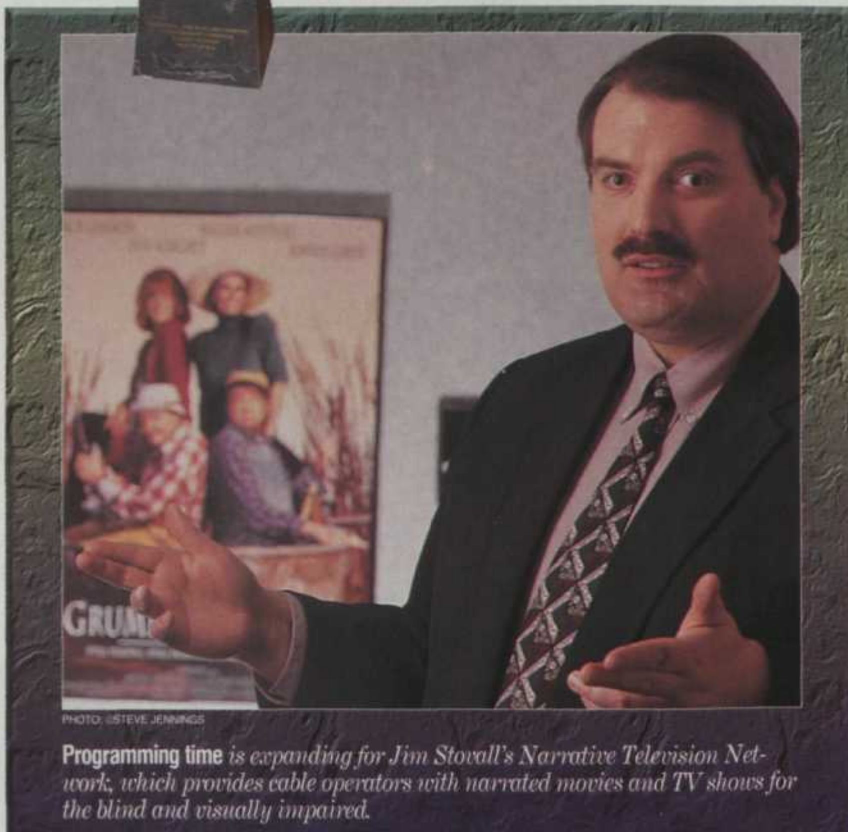


PHOTO: ©STEVE JENNINGS

Programming time *is expanding for Jim Stovall's Narrative Television Network, which provides cable operators with narrated movies and TV shows for the blind and visually impaired.*

Narrative Television Network

Let's say you're channel-surfing one evening and a familiar movie catches your attention. You settle back to watch it one more time, but then you notice something unusual: You're hearing not just the usual soundtrack, but another voice, too. A smooth, professional narrator is describing exactly what's happening on the screen, but without ever stepping on the dialogue.

What you're seeing has come to you from a Tulsa company called Narrative Television Network (NTN), which offers programs for the blind and visually impaired. NTN provides 20 hours a week of narrated movies and TV shows to cable operators, in two-hour blocks. It is one of the many small cable networks, offering less than a full day's programming, that a cable operator can combine on a single cable channel.

NTN's president and co-founder, Jim Stovall, 39, is himself blind. He suffers from macular degeneration, an eye disease that most often attacks the elderly; it was diagnosed in Stovall when he was 17. He was thinking of quitting high school. Instead, he went to college and later worked as a stockbroker. He was totally blind by age 29.

"The level of intimidation would be hard to describe," he says of his descent into total blindness. "You want to get this little space that you feel comfortable in, and never leave it." He had made enough money as a stockbroker "to buy myself some time," he says, but "I wasn't sure what I was going to do."

He met Kathy Harper, a legal researcher with severely limited eyesight, at a support group for the blind. They recognized in each other a desire to make careers that transcend their handicap. Stovall had already experienced the frustration of trying to follow a familiar film from its soundtrack alone, so they began experimenting with narration.

Once they had mastered the technical side, they put together a two-hour package of old TV shows, duly licensed from the copyright owners and transferred to videocassette. The cassettes were distributed by mail, through a national library service for the blind. (As to why those blind people would have VCRs in their homes, Stovall explains that "the vast majority live in a home where someone else is sighted.")

"After three or four weeks, we realized we had a distribution problem," Stovall says. "There was no way we were ever going to keep this audience happy with the limited amount of programming." Demand was overwhelming—like most other Americans, blind people didn't want to enjoy a couple of hours of TV a week, they wanted several hours of it a day.

The only answer, Stovall and Harper soon realized, was to put their narrated shows on the air. Tulsa has a single large cable system, and it agreed to broadcast two hours a week of the narrated shows. With that as a lever, Stovall was able to get the shows on other cable systems, then on a cable network.

In the past few years, NTN has been delivering more and more programming—now 12 to 15 hours a week—with the nar-

ration on a separate audio channel, which you can't hear unless you push a button marked "SAP" on your TV.

There will always be a core of "openly narrated" programs, Stovall says, but in the future most shows will offer the narration separately.

Such narration is "very much the equivalent" of the closed captioning for the deaf that is already common on broadcast TV, Stovall says. The broadcast networks "have been very interested in serving our audience," he says, but they have also been concerned about who would bear the cost of such a service and how revenue would be generated from it.

Although NTN benefits from widespread goodwill in the TV industry, Stovall says—"it's kind of a warm fuzzy"—he has always thought of NTN in business terms, not as a charity. "The long-term viability of this depends on somebody making money," he says.

The programming that NTN provides now is paid for either by the cable channels that pick it up or by "barter"—that is, the cable channels get to sell part of the advertising time. The U.S. Department of Education also subsidizes NTN's programming, as it does closed captioning. That federal funding—"seed capital," Stovall calls it—accounts for roughly half of NTN's revenue.

NTN may be just beginning to tap its commercial potential, but in other respects it has already paid off for Stovall and the half-dozen other people who work at NTN.

"This is a good business," he says, "but beyond that, speaking as a blind person myself, it's a big deal. I feel good about what I do. Everybody here does. When you go home, and you've had a long day, sometimes it's nice to know that you've done something good for somebody."

It's thanks to his blindness, Stovall believes, that he has been able to make such good use of a life that might have been wasted if he had dropped out of school. "If I had the choice now to be able to see again but also to go back and be the person I used to be," he says, "I wouldn't do that. I much prefer this."

Three-C Body Shop

You have a real flair for marketing, it's safe to say, if you can create strong demand for a product or service that no one really wants to buy—the repair of collision damage to your car, for instance. By that standard, Robert A. Juniper Jr. of Three-C Body Shop in Columbus is a marketing genius.

Juniper has depicted for the public a David-and-Goliath conflict between himself and some members of the property/casualty insurance industry, which of course pays for most of the repairs that Three-C makes. Three-C presents itself not just as David, but as a David on the car owner's side.

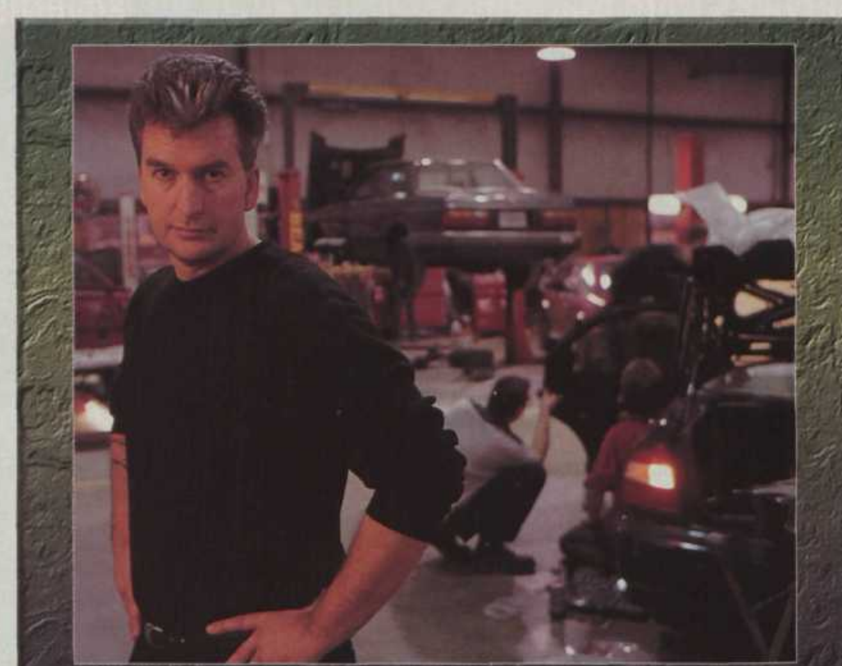


PHOTO: JIM CALLAWAY

An ad campaign *that presents Robert A. Juniper Jr.'s Three-C auto-body shops as a champion of consumers has stimulated huge growth in the company.*

"The key is educating the consumer," Juniper says. "That's a huge job. We do a big chunk of the educating on the radio." His commercials, he says, "teach people that the insurance policy is really a contract, and that when they have an accident or a loss, there are certain things that the insurance company must do. It becomes you and the customer against the insurance company."

One example: Juniper believes that if a door requires repainting, the handle and all the trim should be removed first—a step that takes a couple of hours and that many insurers don't like to pay for. Painting without removing the trim is "the equivalent of not taking your pictures down when you paint the walls in your house," Juniper contends.

To deal with an insurer's reluctance to pay, one tactic Juniper uses is "to do exactly what they tell you to do," he says, even when it is, in his view, "the wrong thing to do. Then you get a bad result"—one that Juniper has warned the customer about, in advance of the work. The customer typically demands a "re-repair," which can wind up costing the insurer more than if the work had been done right initially.

"You do that a few times," Juniper says, "and all of a sudden they don't play that game anymore." He emphasizes, though, that "we're not set in concrete. We'll negotiate" on how much time might be required to perform a repair—"but not on the operations that have to be performed to do the job properly."

His relations are good with a few smaller insurance companies, he says, but because some big companies now discourage their customers from taking work to Three-C, he has responded by opening claim centers of his own. His marketing message, he says, is this: "Just bring your car to me at my claim center, and we'll handle getting your insurance company to take a look at it."

What stimulated Juniper's campaign was an effort by the insurance industry to hold down costs through what are called direct repair programs, or DRPs. Under these programs, insurers steer work to body shops that hold their prices to specified levels.

In 1992, when Juniper told a radio salesman about how the DRPs were starting to siphon work from him, "he talked me into committing $25,000 to radio advertising"—even though Juniper thought he really should spend the money on new equipment.

A few months later, Juniper was starting to see significant increases in business. He decided to "roll the dice," he says, and he wound up spending $70,000 on advertising that first year. "When I really started pouring it on," he says of the advertising, "we started to go vertical with our growth."

When the ad campaign began, Juniper had one location and about 9,000 square feet. He now has 40,000 square feet at the original shop and six other locations besides, and Three-C has become, says an in-

dustry publication, the 11th-largest such company in his fragmented industry.

The Three-C name comes from the shop's location on a highway linking Cleveland, Columbus, and Cincinnati. Juniper's uncle and then his father owned the business before Juniper bought it from his father in 1984.

The last year his father owned the business, Juniper says, the company's revenues were $104,000, and there was only one employee in addition to the two Junipers. "Now we do $104,000 every three days," he says, and there are 84 employees.

Even though Juniper says he is "way out of my comfort zone" managing a company of Three-C's size, he plans to grow even bigger. "The real opportunity is increasing the efficiency of the operation," he says. "If you can do it faster, better, and cheaper, the world will beat a path to your door."

American Hardwood

As Sandy Gray says, "Most wood companies are started by craftsmen," the kind of people who sell things they make at home. "That's not how I got into the business." He took a far more circuitous route—but still was able to revive a small California wood-products firm that had fallen on very hard times.

Gray, 31, is CEO of American Hardwood, a 155-employee company in Gardena whose principal product is slats of basswood and poplar for Venetian blinds. Before he landed at the company in 1990, he had been educated as an engineer at Princeton University and then worked in investment banking in Los Angeles for almost two years.

Investment banking "is always going after the kill," he says. "I didn't get a lot of personal satisfaction out of it. I wanted to build something." So, rather than go back to school for an MBA—a natural step for a young investment banker—"I decided to try my hand at manufacturing for a while," he says. "I liked tangible things."

A friend put him in touch with a venture-capital firm that had just backed an entrepreneur in the purchase of American Hardwood, until then a family-owned firm. Six months after Gray joined the firm, the new CEO put him in charge of manufacturing the slats.

Caught by the recession of the early '90s, the company saw its sales drop 30 percent in the first year under the new ownership. The CEO's strategy, Gray says, was to make up for the losses with volume—a classically bad approach, it turned out, because "he pursued volume by going to the largest customers, without having any idea what our real margins were. As it turned out, our first couple of years we were selling at a negative gross margin."

One big source of trouble was the nature of wood. As Gray says, "You're dealing with a natural product with defects in it." Not until that product has been processed is it possible to make a realistic accounting; nevertheless, American Hardwood was trying to deal with its raw material as if costs were entirely predictable.

The inevitable discrepancies wouldn't show up until the firm made its annual physical inventory. "We'd get to the end of the year," Gray says, "and there'd be a $600,000 inventory variance."

The company's losses mounted, totaling $4.2 million from 1990 to 1992. Finally, in 1993, the CEO, in his 60s, announced his retirement. The company's venture-capital backers tapped Gray, then 26, to succeed him—"out of desperation," Gray says.

Gray, who had not been privy to the company's financial performance until then, negotiated a 25 percent equity share for himself at what he hoped would turn out to be a bargain price.

"When I became CEO," he says, "one of the first things I did was say, 'We're not going to kid ourselves. We're taking physical [inventories] every month.'" Another crucial step: dropping a large customer that accounted for 60 percent of sales but was insisting on prices that guaranteed a loss.

To make up for those lost sales—and avoid layoffs—Gray immediately sought out new and more-profitable customers, in particular smaller blind manufacturers that needed small quantities of slats, delivered quickly. "We broadened our customer base tenfold," Gray says, "and at the same time were selling at higher margins."

The previous CEO had been a top-down manager of the old school, who did not allow Gray—or anyone else on the staff—much freedom of action. When Gray took over, he quickly ordered changes in production procedures that reduced wood waste sharply.

Within two months after Gray became CEO, the company's cash flow had turned positive. After three months, he says, "we had positive net income for the first time in over three years."

PHOTO: ©BART BARTHOLOMEW

When he decided *that he "wanted to build something," Sandy Gray went from investment banking to American Hardwood, which makes slats for Venetian blinds.*

Gray encouraged his work force to become more active in the firm, and he says that American Hardwood now benefits greatly from the involvement of what he calls an "invigorated team." Sales last year were almost $22 million, more than double the 1993 figure, and Gray now owns 100 percent of the company after buying out his venture-capital partner.

As young as he is, Gray's experience has left him well-qualified to offer advice to other small-business people. When asked what such advice might be, his reply comes easily: "Know what your costs are." NB

How To Apply

For information about the program or to have your name placed on a list to receive a 1999 application, send an e-mail to *bluechip@nationsbusiness.org* or call 1-800-FOR-BCEI (1-800-367-2234).

FINANCE

Niche Lenders Hit The Target

By focusing on specific business sectors, specialty finance companies offer tailored services and some advantages over conventional bank financing.

By Sharon Nelton

One day some years ago, a regular customer of Chip's Cleaners, a dry-cleaning store in New York City, handed owner Albert Lee a business card. The customer was Michael Fanger, then an executive with Medallion Funding Corp. He told Lee that he was interested in lending to dry cleaners and coin-operated laundries. "In the future," he said, "if you or anyone you know needs financing, just let me know."

Lee had found himself a small-business niche lender. Or rather, it had found him.

Specialty finance companies come in all forms—lenders, venture capitalists, or providers of mezzanine financing, which consists of a combination of loans and equity capital. (See "A Little-Known Pathway To Growth," March.) Even some banks are specialty—or niche—lenders.

What they have in common is that each concentrates on one or more niches, and they know those business sectors inside and out. They commit themselves to long-term relationships with their clients and are less vulnerable than most banks to the vagaries of takeovers and loan-officer turnover.

"One of our business philosophies is, 'In niches there are riches,'" says Andrew Murstein, president of Medallion Funding's holding company, Medallion Financial Corp., based in New York City. "We try to find niche businesses and really be the best at it."

Medallion has acted as his partner, says Lee. "I think they are like my personal friend." He notes that when he's facing a business decision, the Medallion staff helps him analyze the situation—by going with him, for example, to look at sites for a new location.

A Loan Restructuring

Lee first took up Medallion on its offer to fund him in 1988. He had acquired a coin-operated laundry and had bought 25 new washing machines and 10 dryers to replace old, worn-out equipment. He had also purchased a $40,000 unit for pressing shirts. But the monthly payments were high, and business at the time was slow.

"Then, after a while, I got into a little financial trouble, so I asked my friend, Michael Fanger, if he could help me get out of this hole," recalls Lee.

Fanger visited Lee's business and studied the situation, Lee says. Then Medallion provided a $100,000 loan that would pay off the equipment and leave him with $20,000 for working capital. The repayment period was stretched to seven years, compared with the four-year and five-year repayment periods of the original loans. The new repayment schedule lowered Lee's payments from nearly $6,000 a month to around $2,000, affording him some breathing room.

Fanger has since left Medallion to form his own finance company, Eastern Funding LLC, which also specializes in dry cleaners and coin-operated laundries, but Lee and Medallion have stuck together. Over the past 10 years, Lee has received loans from Medallion totaling $1.5 million, enabling him to expand his company to six dry-cleaning establishments, the laundry, and a 5,000-square-foot dry-cleaning plant.

PHOTO: ©WAYNE SORCE

A finance company *that specializes in loans to dry cleaners and laundries is like a partner and "personal friend" to Albert Lee, owner of Chip's Cleaners in New York City.*

This story is part of a continuing series on ways for small companies to locate the financing they need to run their businesses.

Lee, 40, was born in South Korea and lived with his family in Argentina until he immigrated to the United States in 1982. He thus fits the Medallion Funding profile perfectly. Until it went public in 1996, Medallion was strictly a specialized small-business-investment company licensed by the U.S. Small Business Administration (SBA), lending exclusively to minority- and women-owned businesses; most of the borrowers were immigrants.

Medallion began as a cab company in the 1930s. At one time its owners, the Murstein family, owned 150 New York City taxi permits, called medallions. The company still owns 30 cabs, but over time it

turned to financing medallions.

The cost of medallions—the city limits the number to 12,000—has risen to $250,000 from the $10 they cost in 1937, when they first were issued. Eventually, Medallion added dry cleaners and laundries to its funding mix.

Financing A Work Ethic

Why did Medallion take a chance on Lee?

"It's the desire of these immigrants to succeed that makes us want to back them," answers Murstein. Success in businesses such as taxis and dry cleaners, he says, "depends solely upon how hard you work and how many hours you spend on the job. It's really extraordinary how hard [immigrants such as Lee] work."

Lee doesn't recall having to prepare a business plan to get his $100,000 loan 10 years ago, and Murstein says he probably didn't. With existing businesses such as coin-operated laundries, Murstein says, his clients don't need business plans. Nonetheless, he adds, "We would always ideally like to have collateral, like equipment, inventory, real estate."

Niche financing is largely a word-of-mouth industry. So asking around is one way to find a specialty lender.

Medallion also likes to have a personal guarantee so it can go after personal assets if a client doesn't repay. But failure to repay is rare, says Murstein.

Obtaining a loan from Medallion typically takes 30 days, according to Murstein. The company's interest rates, he says, "pretty much match whatever the banks are offering." They averaged about 11 percent earlier this year.

More important, Murstein says, is the fact that banks "won't even touch" a lot of the businesses his company finances.

Searching Other Niches

With some digging, you can find a source of capital tailored to your niche. For example, Retail & Restaurant Growth Capital, L.P., based in Dallas, funds "privately owned retail and restaurant businesses that have a potential for growth and expansion," according to one of the general partners, Raymond C. Hemmig. All of the partners have substantial retail and restaurant experience.

Financial Federal Corp. in New York City lends to contractors, trucking firms, waste-handling companies, and other businesses that use heavy mobile equipment. Capital Dimensions, a venture-capital firm based in Minneapolis, specializes in minority-owned radio stations.

Many specialty finance companies operate nationwide. Retail & Restaurant Growth Capital, which is less than two years old, has funded six businesses in four states. Silicon Valley Bank, based in Santa Clara, Calif., concentrates on working with technology firms. It has clients in more than 40 states and offices in more than a dozen centers of technology.

Niche financing is largely a word-of-mouth industry. So asking around is one way to find a specialty finance company. Here are some others:

Look for trade shows with a financing component. Hemmig cites two that he finds useful. One is the annual Restaurant Finance & Development Conference, sponsored by the *Restaurant Finance Monitor*, a newsletter published by the Restaurant Finance Corp. in Roseville, Minn. The other meeting is a conference held annually in Las Vegas by the New York City-based International Council of Shopping Centers.

The latter, he says, is "a collection of tenants, landlords, developers, and lenders looking for deals."

Comb trade publications for advertisements. For example, a company that specializes in funding the staffing-services industry, Phillips Financial in High Point, N.C., had a full-page ad in a recent issue of *Tempdigest*, a magazine for the staffing trade.

Network with professional advisers. Ask for referrals from your banker, accountant, and attorney and from other business owners. Call your nearest Small Business Development Center; check your telephone directory's blue pages for a center or for the closest SBA office.

Look at the SBA's directory of small-business-investment companies on a section of the agency's World Wide Web site, *www.sbaonline.sba.gov/inv*. The state-by-state list of about 300 SBICs includes the specialties of many of them. You can also get a copy of the list by mail. Write to Associate Administrator for Investment, U.S. Small Business Administration, Washington, D.C. 20416, or call (202) 205-6959.

Obtain a membership directory of the National Association of Investment Companies, a trade association for venture capitalists and specialized small-business-investment companies that target minority-owned firms. The directory costs $30. Write the NAIC at 1111 14th St., N.W., Suite 700, Washington, D.C. 20005, or call (202) 289-4336.

Keep in mind that different companies have different criteria for determining whether you are a good candidate for financing. Some, for example, fund start-ups; others fund only companies that are expanding. Entrepreneur Lee suggests getting references on any companies you pursue.

And above all, Lee says, don't be intimidated. Many small-business owners, he says, "think a finance company is for somebody else, for big people. That's not true." NB

More Than Just Number Crunchers

The latest accounting software can be integrated with many aspects of companies to help them manage their businesses.

By Tim McCollum

Somerset Farms' revenues have increased at the dizzying rate of 40 percent a year over the past decade since the firm entered the profitable niche of providing food products for prisons throughout the country.

About halfway through the sales-growth spurt, Jay Shrager, president of the 57-year-old food distributor in Spring House, Pa., sensed that things were moving so fast that he couldn't keep up with the company's operations—and its bottom line. In response, he automated Somerset Farms' financial systems.

It's a decision Shrager has never regretted. The financial software he selected, DacEasy Accounting & Payroll, from Sage U.S. in Dallas, gives him a "hands-on" grasp of the ever-changing finances of Somerset Farms and its sister companies, he says. "It allows me to get a better gist of the business at any time of the day."

Companies such as Somerset Farms are doing much more with accounting software than just keeping the books. They are using the software to help manage their businesses, says Ernie Neve, a CPA and president of Neve & Company P.C., an accounting firm and software reseller in Plymouth Meeting, Pa.

"As users get more sophisticated and technology becomes more prominent, they look to do more with it," Neve says. Increasingly, companies are tying their accounting programs to other facets of their businesses and using them in concert with other software applications, including databases as well as point-of-sale and sales-force-automation systems, he notes.

As a result, information entered into a computer by a salesperson, warehouse clerk, or other employee automatically feeds into the accounting system, enabling firms to grasp their cash-flow and other financial-performance figures instantly.

"Companies are trying to do more enterprise-wide accounting," says James D. Snell, a CPA and president of TapNet, a consulting firm in Fitzwilliam, N.H. "They want to reduce entering information manually and entering it more than one time."

Somerset Farms' Shrager bought DacEasy, an off-the-shelf program, to automate accounting operations that had been done with spreadsheets by his wife, Carole, the company's bookkeeper and business manager. The new system is tied in to the company's manufacturing and distribution systems.

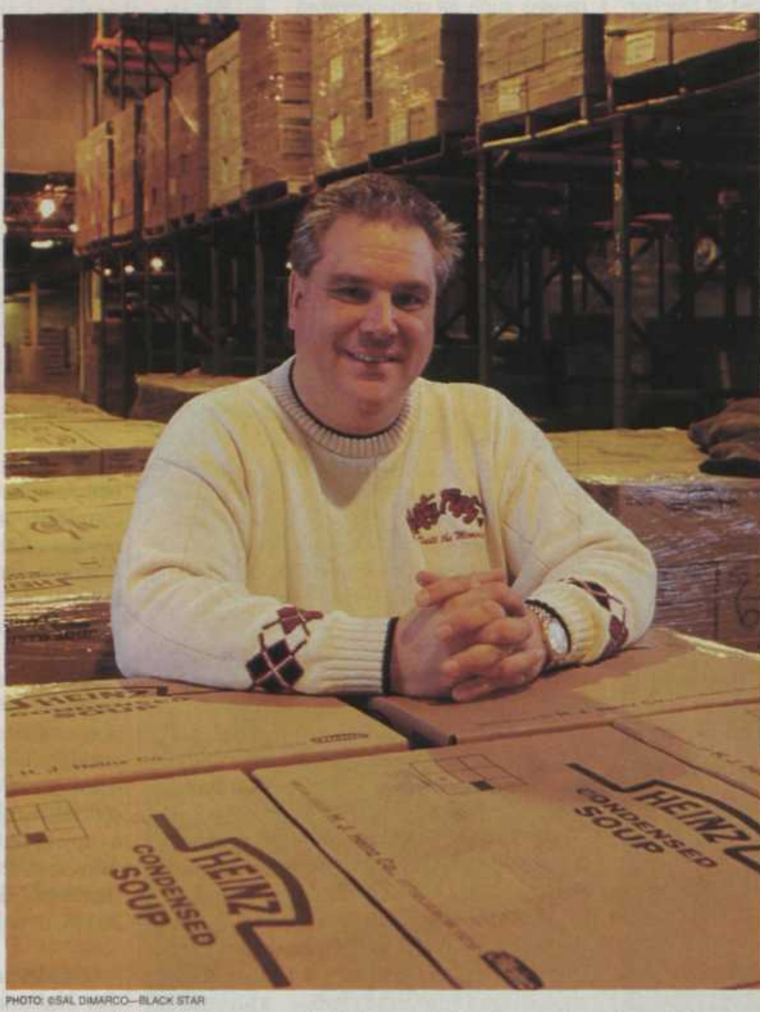


PHOTO: ©SAL DIMARCO—BLACK STAR

Financial software *helps keep Jay Shrager's finger on the pulse of Somerset Farms, a Spring House, Pa., distributor of food products.*

At Somerset Farms, 16 employees make entries into the DacEasy system over a NetWare network, from Novell Inc. of Provo, Utah. Each customer order is entered into DacEasy's order-entry module to create and print an item ticket for the company's warehouse employees. The information is passed on to the billing department, which creates a customer invoice.

The software also allows the company to determine whether ordered items are in stock and when supplies are running low.

As it prepares to triple its work force in the next year to meet still-rising demand, Somerset Farms is about to test the limits of its accounting system.

Accountants say many off-the-shelf accounting programs can't keep up with fast growth in companies. Many small firms find that they need a more sophisticated, customized software and an expert vendor to stay abreast of their changing needs.

Encore Ribbon is one such company. Two years ago, the Petaluma, Calif., firm—which manufactures and recycles computer-printer ribbons and toner cartridges—began searching for a system that could increase the efficiency of its operations.

The family-owned firm settled on a package called Visual AccountMate, from AccountMate Software Corp. in Mill Valley, Calif. Encore worked with AccountMate to tailor the Windows-based software to the company's needs.

Visual AccountMate tied together all of Encore's operations, allowing managers to track crucial details such as sales, shipping, back orders, receivables, and payables. This enabled the company to cut three days off

the time needed to process a customer's order, says Ryan Perry, Encore's vice president. "We can follow the whole production cycle, pack it, ship it, and invoice it with the same software," he says.

As a result, Perry adds, he and his parents—the firm's owners—always have an accurate picture of how the business is doing, which allows them to make better planning decisions.

In addition, he says, Visual AccountMate gives Encore greater flexibility in setting prices and negotiating discounts with customers. This is done by tying the software into Encore's sales-commission system, which sets a minimum amount at which a salesperson can sell an item. When a sale is made, the program calculates and reports the salesperson's commission automatically.

Although midrange accounting systems such as Visual AccountMate can automate a small firm's entire business operations, such systems may be too complex for many small firms, says TapNet's Snell. Whereas off-the-shelf software such as DacEasy can be purchased for less than $200, more-advanced programs can cost more than $1,000 and often require custom programming before installation.

The Internet and electronic commerce have placed an additional burden on accounting programs. Many firms selling products on the World Wide Web want to tie their Web sites into their order-entry and accounting systems. That's not easy to do, says Snell.

Some vendors of midrange and off-the-shelf accounting programs have begun building Web capabilities into their software, but Snell says those capabilities can be difficult for most small firms to set up.

Wilderness Coffee in Maple Grove, Minn., is among the companies struggling to tie their accounting software and Web sites together. Wilderness has had a popular coffee shop in suburban Minneapolis for several years. Last year Wilderness started selling custom-roasted gourmet coffee through its Web site, *www.wilderness-coffee.com*. Web sales have been more robust than expected, says Blaine Ekre, the company's president.

Yet despite the Web site's success, Ekre says, the process isn't as efficient as he would like. The problem is that Wilderness Coffee's electronic-commerce software and its accounting software are incompatible.

Ekre set up his Web site using PeachLink electronic-commerce software, from Peachtree Software Inc. in Norcross, Ga., and Harbinger Corp. in Atlanta. Rather than use one of Peachtree's accounting programs, however, Ekre stuck with QuickBooks, from Intuit Inc. in Mountain View, Calif., using it to keep the books for the coffee shop.

Consequently, customers order and pay for their coffee online using a catalog and forms created by PeachLink. Each week, Ekre downloads this customer data from the Web site into his office PC. But to enter the orders into QuickBooks, Ekre has to convert them into a compatible file format, using a software filter that he had to write himself.

"If you're using Peachtree's accounting software, it's a big plus because it's automated," Ekre says. "But if you're not, you need to get the information out of PeachLink to get it into the accounting program. That's not so easy."

Changing accounting programs isn't an easy option, partly because of file incompatibilities between Peachtree and QuickBooks. But Ekre wants to stay with PeachLink because it makes it easy to set up and maintain his Web site with full transaction capabilities.

Such compatibility issues between accounting programs and other applications have long plagued small businesses. "The problem is that a lot of third-party software is not supported by the accounting software, so it is risky to use," Snell says. "If something does go wrong, there's a lot of finger pointing" about which software caused the problem.

PHOTO: ©STEVE WOIT

Their World Wide Web site *has robust sales, but incompatibility between their electronic-commerce and accounting software is a problem for Blaine Ekre and his wife, Jayne, co-owners of Wilderness Coffee in Maple Grove, Minn.*

Large companies overcome these problems by creating custom-made links between programs. That's not an option for small firms unless they have their own programming expertise, as Ekre does, or they can pay a programmer to do it for them.

Yet the benefits of automating financial systems and integrating them with other business processes make the extra effort and investment worthwhile.

Accountant Neve says a company should seek out consultants who will take the time to understand the business and what it wants to accomplish with its accounting system. He says full implementation can take from three months to a year.

"There's a fair amount of work in the beginning," Neve says. "But once you figure out what you want to integrate, it becomes a pretty seamless thing as you go forward." NB

Small Business Technology

Software for doing taxes; cures for PCs' internal ailments; devices for keeping in touch.

By Tim McCollum and Albert G. Holzinger

TAX-PREPARATION SOFTWARE

Helping You Join The Crowd Of Electronic Filers

Electronic tax filing is hot. The Internal Revenue Service reports that 19 million Americans filed their 1996 income taxes by phone or by using a computer and a modem, and the agency projects a 16 percent increase in electronic filing for the 1997 tax year.

Electronic filing is accurate, too. The IRS says returns filed electronically have far fewer errors than paper forms.

Several software products and Internet sites are available to individuals who want to begin filing electronically. Each capably answers common questions, offers authoritative advice, and generally walks users through the process of preparing and filing their tax returns electronically.

Software designed specifically to allow entrepreneurs to do their own business taxes is available from Intuit Inc. of Mountain View, Calif.

Following is a brief look at a few of these products.

Kiplinger TaxCut (Block Financial Corp., 1-800-235-4060). Kiplinger TaxCut contains a variety of features, including some handy Internet tools.

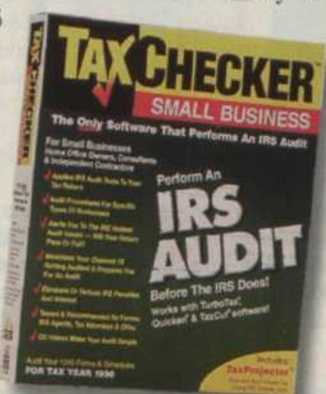
Individuals prepare their taxes primarily by answering questions that the software poses about their tax situations and sources of income.

The program also allows users to import relevant data from leading financial-management programs such as Intuit's Quicken and Microsoft Money, by Microsoft Corp. of Redmond, Wash., as well as from previous years' returns prepared with the use of Kiplinger TaxCut or Intuit's TurboTax.

The software offers tax advice compiled from Kiplinger experts and from IRS instructions. The Deluxe Multimedia Version offers this counsel in video and audio form.

The Internet features of Kiplinger TaxCut include a World Wide Web site (*www.taxcut.com*) where users can access additional tax information via Web browser software that provides 30 days of free Internet access.

The retail price of $24.95 ($29.95 for the Deluxe Multimedia Version) includes one free electronic filing.



TurboTax Deluxe and TurboTax for Business (Intuit Inc., 1-800-446-8848). Intuit's TurboTax Deluxe effectively harnesses the power of the Internet and the multimedia capabilities of today's PCs.

The program includes numerous video clips containing tax advice compiled from books and IRS publications and links to tax-related topics on Intuit's highly acclaimed financial-services Web site (*www.quicken.com/taxcenter*).

The actual tax-preparation process has been refined, enabling users to complete forms quickly. And users can preview and then import selected financial data from the company's Quicken program or from its QuickBooks accounting package.

TurboTax for Business contains all the features above and allows entrepreneurs to complete their business taxes. However, it's suitable only for very small businesses with fairly straightforward finances, whether they're sole proprietorships, corporations, partnerships, or S corporations.

Intuit allows users to file returns electronically using these programs at no charge.

The retail prices are $44.95 for TurboTax Deluxe and $64.95 for TurboTax for Business.

TaxChecker Small Business (Tax Defenders Inc., 1-800-659-5427). Written by a former IRS auditor, TaxChecker analyzes users' tax returns and flags items most likely to trigger an audit. Most tax-preparation programs have audit-avoidance features, too, but TaxChecker surpasses them.

The software explains the IRS audit procedure and generates a diagnostic report based on business type, income, and industry.

TaxChecker isn't tax-preparation software. However, it can be used to analyze returns prepared using Kiplinger TaxCut or TurboTax. Those filing paper returns can use TaxChecker by responding to a series of questions generated by the software.

TaxChecker is also available in individual, corporate, and tax-professional versions at retail prices starting at $49.95.

SOFTWARE SUITES

New Version Of Software Suite For Small Businesses Readied

Microsoft Corp. of Redmond, Wash., is about to release a new version of the popular **Small Business Edition** of its Office suite of productivity software.

The suite consists of the Word 98 word processor; Excel 98 spreadsheet; Publisher 98 desktop-publishing program; Outlook 98 electronic-mail and information-management program; Small Business Financial Manager 98 collection of financial-analysis tools; and Expedia Streets 98, a mapping and travel-information program. Also included are goodies such as an online tool kit for doing business on the Internet.

Look for a detailed review of the suite in an upcoming issue of *Nation's Business*.

The suite will retail for about $499 for new users and about $249 for those upgrading from an earlier edition of Office or one of its component programs.

Inexpensive Remedies For PC Maladies

Like automobiles, computers require ongoing maintenance and more than occasional repair as hard disks crash, files get lost, viruses infect software, and old programs lose their usefulness.

These and other computer maladies can drain productivity from small companies, but their impact can be minimized through the use of inexpensive utility software, including maintenance tools, uninstallers, and antiviruses.

Maintenance Tools

Maintenance programs prevent or detect and repair problems such as crashed hard drives, software conflicts, and lost files.

First Aid 98, by CyberMedia Inc. of Santa Monica, Calif., ($39.95, 1-800-721-7824) is like having a service technician resident in a PC. The software constantly scans for problems such as impending hard-disk crashes, corrupted and damaged files, and software misbehavior that can freeze up a PC.

When it detects a problem, First Aid 98 allows users to save their work and deal with the malady.

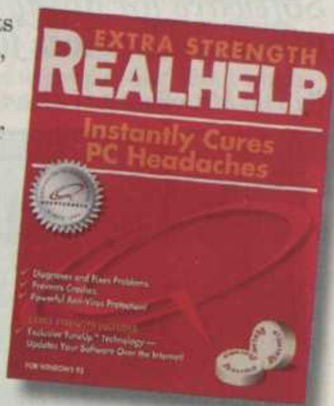
Moreover, First Aid 98 includes CyberMedia's ActiveHelp Center, which connects to the company's Internet site (*www.cybermedia.com*) as needed to solve intractable problems.

Norton CrashGuard Deluxe, by Symantec Corp. of Cupertino, Calif., ($49.95, 1-800-441-7234) works to prevent computer crashes by constantly scanning for and fixing common problems.

If a system is going to crash, CrashGuard Deluxe attempts to delay the disruption long enough to allow the user to save his or her work.

CrashGuard Deluxe comes with a six-month subscription to Symantec's Web services *(www.symantec.com)*, which provide automatic software updates.

RealHelp, by Quarterdeck Corp. of Marina Del Ray, Calif., ($59.95, 1-800-683-6696) solves computer problems ranging from hard-disk crashes to virus attacks.



Like its competitors, RealHelp monitors PCs for potential problems and attempts to fix them as they arise. But the software also mediates conflicts between PCs and add-in devices such as modems, network cards, and sound cards.

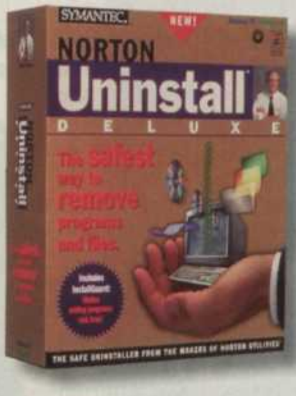
The "extra strength" version of RealHelp includes an antivirus program and a one-year subscription to Quarterdeck's TuneUp Web site (*www.tuneup.com*).

TuneUp allows users to download updates not only to RealHelp but also to many other popular applications.

Uninstallers

Software programs compatible with Windows 95 are supposed to be easily "uninstalled" once they have outlived their usefulness. But they're not.

Even when they're removed using the procedures spelled out in their manuals, many programs leave behind problematic files and entries in a hidden database that Microsoft Corp. named the Registry. First-rate uninstall software completely removes applications—and their troublesome loose ends.



CleanSweep Deluxe, by Quarterdeck Corp. ($59.95), is essentially a database containing the exact locations of files placed on a computer's hard disk during software installation. It also contains changes made to the Windows 95 Registry. When users want to remove software, CleanSweep helps them decide which files can be removed safely.

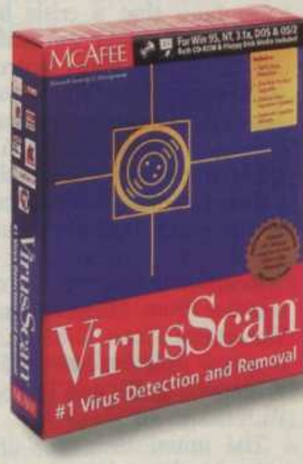
Norton Uninstall Deluxe, by Symantec Corp. ($39.95), like its competitors, is a tool that takes the guesswork and risk out of removing programs to free up disk space. Moreover, Norton Uninstall scans and deletes "*.tmp" and other unneeded files each time your PC boots up.

Norton Uninstall includes a novel feature that allows users to install software on a trial basis. If they decide they don't want a particular application, they click an on-screen button and the PC reverts to the way it was before the software was added.

Antiviruses

Small-business PCs currently are at risk from more than 15,000 computer viruses, according to the National Computer Security Association in Carlisle, Pa. Having up-to-date antivirus software is a vital preventative and corrective step.

Norton AntiVirus, from Symantec Corp. ($49.95), provides continuous protection against file viruses and macro virus infections, which attach themselves to word-processing and spreadsheet documents. The product scans viruses on floppy and hard disks, networks, electronic-mail attachments, and Web pages.



VirusScan, formerly McAfee VirusScan, by Network Associates Inc. of Santa Clara, Calif., ($34.95, 408-988-3832) detects and deletes a wide range of viruses on hard disks, floppy disks, e-mail attachments, compressed files, and Internet downloads.

Users can set VirusScan to scan files automatically while they work or run it manually as needed. To help users keep their software current, VirusScan automatically downloads updates from the Network Associates Web site *(www.nai.com)* when a new version is available.

MOBILE COMMUNICATIONS

Ways To Stay In Touch When You're On The Go

How many times have you left your business for a key meeting—or a round of golf—only to learn later that a crisis had erupted right after you walked out the door? Many entrepreneurs would reply, "Way too often." After all, running a small business is the consummate hands-on job.

Three innovative and stylish new communications products can help you stay in touch when you're on the go.

Beepwear is a new line of pager/wristwatches from MTX Paging Products of Watertown, Conn. (1-888-727-2931). MTX is a new joint venture of Motorola Inc. of Schaumburg, Ill., and Timex Corp., also of Watertown.

The initial Beepwear offering, which proved to be a show stopper at the Consumer Electronics Show in Las Vegas in January, is everything you'd expect from two leaders in their respective fields.

It's a full-function alphanumeric pager capable of storing up to 16 messages of up to 105 characters each and various news summaries from nationwide paging-service provider SkyTel of Washington, D.C.

The pager is incorporated into a black-plastic wristwatch with a black leather band. In addition to its paging features, the sports-style timepiece includes stopwatch and alarm functions.

MTX *paging wristwatch*

The product retails for $129, and paging-service plans start at about $8 a month.

The very cool **Jabra EarSet,** from Jabra Corp. of San Diego (1-800-327-2230), is not a communications device but a communications accessory that can help you stay sane—and alive—when you're using most analog or digital portable phones. (The phone must contain a now-common 25-mm input jack. If it doesn't, the phone's manufacturer or Jabra may make a suitable adapter.)

The EarSet consists of a colorful, lightweight, and comfortable gel that channels your caller's voice into your ear canal while picking up your voice for outgoing transmission.

The EarSet does a remarkable job of filtering out ambient noise, to the benefit of both parties in the call. It also means safer driving because it allows a car phone handset to be put down once a call is placed or received. The Jabra EarSet retails for $39.95.

The new **Portable Answering Machine** from Motorola (1-800-548-9954) is a digital answering device the size of a conventional pager. Incoming voice messages of up to three minutes are forwarded from a service provider to the answering machine through the use of secure communications technology.

The 5½-ounce device has the ability to play, fast forward, pause, rewind, and delete the messages just like an in-home telephone answering machine.

Motorola *portable answering machine*

The Portable Answering Machine retails for approximately $70 with the purchase of a service contract from one of several vendors. Service costs about $20 a month.

BITS AND BYTES

■ More entrepreneurs and their employees are working from home, either during the business day or after hours. To be truly productive, these people need access to information and resources on the PC at the office. **Remote DeskLink,** by Traveling Software Inc. of Bothell, Wash., ($49.95, 1-800-343-8080) is a handy and inexpensive product that lets people access their office PC's programs and data from afar. After installing the software on both their home and office computers, users dial their office PC via modem and run its applications on their home computer.

Remote DeskLink is particularly helpful when users need to use a program they have installed on their office but not their home computer. Moreover, users can cut or copy material from documents stored in their office PC and paste it into applications running on their home PC.

■ Many companies promote their computer-hardware products as fast and easy to install; few actually deliver on the promise. So we viewed with skepticism the claim by Apricorn Inc. that users can upgrade their notebook computer's hard drive "in minutes" and transfer the contents of the old drive to the new, larger one using the company's **EZ-Gig Data Transfer Utility Kit.** But Apricorn is right.

The Poway, Calif., company's product includes both all the required software and hardware and a clear, concise instruction guide. Armed with this material, it took one test user only 10 minutes to transfer the contents of the 540-megabyte drive on his laptop to the 2.1-gigabyte drive from Apricorn and five minutes more to install the new drive using only a small screwdriver. Most hard-disk upgrades are much more complicated and time-consuming.

Prices for the EZ-Gig Data Transfer Utility Kit start at $429 depending on drive capacity and notebook manufacturer and model. The kits are available direct from Apricorn (1-800-458-5448) and from some resellers.

■ The proliferation of Web sites and Web-based intranets has created a need for products that help people create Web-compatible documents. Now there's **Trellix,** a product that enables people to create multipage Web documents easily.

Trellix, from Trellix Corp. of Waltham, Mass., ($99, 1-800-266-0879) can be used as a stand-alone product to enter text or in conjunction with separate word-processing software. Most operations involve copying and pasting text and graphics into predefined page templates.

But the Trellix software also automatically generates links between pages. Once a document is finished, Trellix walks users through the process of posting it to a Web site or an intranet. NB

EZ-Gig *hard-drive upgrade kit*

Women Owners And Uncle Sam

Only a small percentage of procurement spending goes to women-owned firms, but some are finding ways to increase their business with the government.

By Sharon Nelton

When it comes to doing business with women entrepreneurs, the federal government gets mixed reviews.

On one side are women who contend that the government is not doing enough to make sure that women business owners get their fair share of federal purchasing dollars.

They point out that women own about 35 percent of the nation's businesses and that the government has a goal—set by Congress four years ago—of putting 5 percent of its procurement spending into women-owned firms, yet women's firms still receive just under 2 percent of the $200 billion that the government spends annually on procurement.

"To put this statistic in perspective, [in 1996] one large government contractor did about five times as much business with the federal government in prime contracts as all women-owned businesses combined," Jane Palsgrove Butler, acting associate administrator for financial assistance for the U.S. Small Business Administration (SBA), told a U.S. House small-business subcommittee last fall.

Billie Bryant, president of Technology Interchange Resources, a training company in Dallas, says, "One of the obstacles for women in growing their businesses is the inability to get government contracts."

PHOTO: ©STEVE JENNINGS

Women-owned firms *don't get their fair share of government contracts because they don't go after them, says Regina M. "Jean" Carter, head of an aerial-photography and topographic-mapping company.*

Undaunted By Bigness

On the other hand, there are women such as Regina M. "Jean" Carter, who maintains that it doesn't make any difference to the feds if you're a man or a woman. Carter is president and CEO of Aerial Data Service, Inc., an aerial-photography and topographic-mapping company in Tulsa, Okla., and she has been doing business with the federal government regularly for 10 years.

About 10 percent of the company's $5 million in revenues last year came from federal contracts. Aerial Data Service has done work for clients such as the Army Corps of Engineers, the U.S. Geological Survey, and the Forest Service.

How does Carter explain the tiny percentage of contracts awarded to women business owners when women own more than one-third of the nation's businesses? She suggests that women just aren't going after the contracts.

"I think that a lot of women-owned businesses are typically small, and dealing with the federal government is intimidating. I don't think it needs to be," says Carter. She adds that "you have to make the commitment that you're going to see it through and do all the paperwork. But it's real doable."

Winning Strategies

Mary Ann Elliott is president of Arrowhead Space and Telecommunications, Inc., a Fairfax, Va., engineering firm that specializes in satellite communications and telecommunications technologies. A successful federal contractor, the $5 million company employs nearly 40 people.

Elliott has won a number of contracts—both as a prime contractor and as a subcontractor—from the Department of Defense, including a $1.2 million job with the Joint Logistics Center in Dayton, Ohio, and a $3 million contract with a division of the Navy in San Diego. She has also done work for the Department of Transportation.

One of the strategies that has made her successful started with her recognition that when you're aiming to do business with the Defense Department, "you're fighting an uphill battle in terms of competing against the larger, more established companies. And if you do not have [former] military personnel on staff who have a good network of contacts and understand all of the acronyms in a given agency, then it's almost impossible to penetrate the agency and get contracts."

She has made it a practice to have some people on staff with substantial military background to help open doors for the company and provide the knowledge it needs to work effectively with the military.

A Ripple Effect

What women business owners are finding as they deal with the federal government

is that any trend that hurts small business hurts them as well.

One particularly unpopular trend has been the bundling of small and medium-sized contracts into large procurement packages. This practice reduces the number of small contracts and makes it harder and costlier for small businesses to compete.

Bundling is a problem that the SBA hopes to redress by making it easier for small firms to team up and compete for larger contracts.

But Aerial Data's Carter says there are good trends as well. "In our business specifically, the federal government is outsourcing much more of the work that they used to do in-house, so it's wonderful for the private sector."

One way to get a foot in the door is to visit with and get to know the contracting officers at the government agencies.

"Then, when they have projects that they need to have work done on, they know someone to call, and it's just easier," says Carter. "You just have to treat them like they're a private client."

It doesn't matter whether you're a woman or a man when it comes to obtaining federal contracts, Carter insists. She says a contracting officer recently told her that his agency comes to her because her company does good work.

"That was music to my ears," she says, "because I would much rather be getting work because people are pleased with our performance than because we're woman-owned." NB

PHOTO: T. MICHAEL KEZA

Having staff members *with military backgrounds helped Mary Ann Elliott's firm, Arrowhead Space and Telecommunications, win contracts from the Defense Department.*

Seizing The Initiative

Now, perhaps more than ever, women business owners can increase significantly their chances of doing business with the federal government. Here are some things you can do:

Start with a visit to the procurement section of the Online Women's Business Development Center, a new World Wide Web site created by the Small Business Administration's Office of Women's Business Ownership. It offers in-depth education on procurement as well as links to other online resources. You can find it at *www.onlinewbc.org*.

Visit your nearest SBA office and SBA-sponsored Small Business Development Center. The offices have resources, publications, and education programs to help you learn what it takes to be a successful contractor.

Read the bible of federal contracting, *Commerce Business Daily.* Published every business day by the U.S. Commerce Department, it lists procurement opportunities over $25,000. An online version is available free at *http://cbdnet.access.gpo.gov/*. Print versions are available in libraries or by subscription ($137.50 for six months or $275 for one year). Call the Government Printing Office at (202) 512-1800.

Locate your nearest Procurement Technical Assistance Center. About 100 PTACs around the country assist small businesses in marketing and selling products and services to federal, state, and local governments. For locations, call (409) 886-0125 and ask for AGMAS, the Association of Government Marketing Assistance Specialists.

Go electronic. More and more government purchases are made by computer, and women who step up to the challenge will be ahead of the game. There are 16 Defense Department-sponsored Electronic Commerce Resource Centers (ECRCs) that offer business owners free training in how to do business with the government electronically. Subjects can include marketing on the Internet, electronic data interchange, and home-page development.

A Web site that offers information on the centers is *www.ecrc.ctc.com*, the national ECRC site.

Look for opportunities to be a subcontractor. If you're just getting started, gaining experience as a subcontractor and performing the job well will give you greater credibility when you seek prime, or direct, contracts, according to Regina M. "Jean" Carter, president and CEO of Aerial Data Service, an aerial-photography and topographic-mapping firm in Tulsa, Okla.

Team up with complementary small firms to compete for contracts that none of you could compete for alone. Carter says that if a contract requires both ground survey and aerial photography, she might join forces with a survey company to go after the work.

Network with other women business owners. This way, you'll build your own set of contacts, says Mary Ann Elliott, president of Arrowhead Space and Telecommunications in Fairfax, Va. She works through groups such as Women in Technology and Women in Aerospace.

NY/E8

Lone Retailers' Rising Star

As the appeal of malls begins to fade, independent stores are experiencing a resurgence in downtowns and other neighborhoods.

By Dale D. Buss

Like every other metropolitan area in America, Detroit has been malled. The first planned shopping center in the country was Northland Center, which opened in nearby suburban Southfield in 1957. Several large malls later, one of the nation's swankiest shopping destinations, the Somerset Collection, has just opened in Troy, about 10 miles north of Detroit. And the busiest interstate crossing in Michigan, near Flint, serves an outlet mall at the fringes of exurbia.

But as thousands of Detroit-area shoppers habitually journey to malls, thousands more are rediscovering independent retailers far from the malls. They head for places like the corridor formed by 8 Mile Road, where independent stores selling furniture, carpeting, and other merchandise are keeping commerce alive along the border between Detroit and its northern suburbs.

Shoppers are also picking outposts north of Detroit such as Rochester and Royal Oak. In Rochester, a distinctive main avenue, old-fashioned mercantile virtues, and the very modern presence in cyberspace of most of the stores there are helping stand-alone stores draw more shoppers.

In the thriving haven of downtown Royal Oak, several funky, New Age-type boutiques have joined the stalwarts—such as hardware stores, camera shops, and pharmacies—to provide perhaps the hottest retailing atmosphere in the area.

"A lot of customers we get are people who can't stand the mall anymore," says William Krout, co-owner of Decades, a shop in Royal Oak that sells nostalgic collectibles. "With us, you may not always get the broadest selection, but you're more likely to find something a little different.

"Customers are sick of going into stores in the mall and seeing the exact same counters, shelves, and merchandise that they've seen in every other mall."

Krout makes an important point: There has long been a collective tension between independent operators and malls—two very different kinds of retailing institutions.

Experts say this relationship has never been more distant—and that for the first time, the balance in the American consumer's mind may have shifted back in favor of independents, whether they're in a real downtown or in a suburban strip mall.

"The next 10 years is going to be the decade of the independent," says J'Amy Owens, owner of The Retail Group, a Seattle-based strategic-planning and design company for retailers.

PHOTO: ©SANTA FABIO—BLACK STAR

By offering merchandise *that's "a little different," says William Krout, his collectibles store near Detroit is attracting customers "who can't stand the mall anymore."*

Malls themselves helped plant the seeds of this resurgence. Rising rents and chain-friendly managements long ago drove out most independents. "For years, malls—finally to their detriment—have tried to be homogeneous and bring in the same types of stores," says Jim Harrigan, co-principal of Economic Development Systems, a consulting concern in Rancho Palos Verdes, Calif., that helps downtowns throughout the state revitalize their shopping districts.

Other important factors are at work, too. Many baby boomers, for example, are tiring of look-alike malls; more neighborhoods are reinvesting in their retail environments and the independent stores that typically populate them; and the growing tourism business across America appreciates and encourages the distinctiveness of downtowns. Urban ethnic neighborhoods and continued gentrification of central cities also are contributing to shoppers' growing taste for independent stores.

Nonetheless, in many ways it remains a perilous time for independent-store owners, with continuing consolidation in the retailing industry in general and the ubiquity of low-price superstores, especially in the "power centers" rising at many major crossroads in America. But take a walk through many small-store havens, and you'll see prosperity, resilience, and hope.

Retailing specialists offer suggestions such as these to independents attempting to compete with malls and superstores:

Look for new markets. David Schwartz, owner of Harry W. Schwartz Books in downtown Milwaukee, began to feel the squeeze four years ago when Barnes & Noble opened a superstore not

many miles away. Now another chain of books-and-music superstores—Borders—also is coming to town.

But Schwartz has been fighting back by being quick on his feet. One important gambit that "has been successful beyond my expectations" is a "loyalty" or "community giving program" involving the local zoo, theater groups, an anti-hunger organization, and self-help groups. When a customer identifies himself as a member of one of the organizations, the store gives the group 1 percent of the sale. These sales now account for about half of Schwartz's business.

"I've now got 19 organizations and 26,000 people enrolled, and I'm giving away $35,000 a year in this program," he says.

Hook yourself to the neighborhood. Since "neighborhood" is the middle name of a lot of independent stores, the fullest possible integration with the people around them is key.

At Lena's Food Market in central Milwaukee, such integration begins with offering "the best prices possible in a very price-sensitive yet quality-conscious market," says Gregory Martin, co-owner of the store with his brothers Derrick and Anthony.

After working since a young age in their parents' nearby grocery, the Martins reopened a store abandoned by a supermarket chain. They have made a point of hiring most of their more than 100 workers from the low-income neighborhood that surrounds the store. "A lot of people who live right here are very qualified to work here and do a good job," Gregory Martin says.

Similarly, in downtown Raleigh, N.C., Shalom Rokach has defied the odds against Isaac's, his independent clothing store, by discerning a unique neighborhood niche.

He gets some pinstriped customers from downtown businesses, but he primarily attracts customers who live in the surrounding ethnic neighborhoods. He caters to them by featuring a range of price points, right up to single-breasted, three-button Zanetti designer suits for $759.

But Rokach also looks for less-conventional opportunities to serve his neighborhood. Local church and gospel choirs, for example, are among his best customers. "I go right to the church and sell to them," he says. "It's a lot easier than asking all of them to come to the store."

Emphasize service. This is still an arena in which mall stores and free-standing superstores typically can't compete with neighborhood stores. So Rick Karp has turned Cole Hardware into a "total solution" for the neighborhoods around each of his three stores in San Francisco. Among other services, Cole offers senior citizens free transportation to and from the store.

Deborah Gilbert Smith, whose clothing store in Millburn, N.J., has been open for about seven years, says, "A lot of our services are just givens, like free alterations, gift-wrapping, and delivery."

Other offerings—such as free snacks and a children's play area—are pleasantly surprising enhancements. "We want and encourage drop-in and one-time business, but our strength is the repeat customer—the person whom we know, who knows us, and who knows that we'll have what they want," says Gilbert Smith.

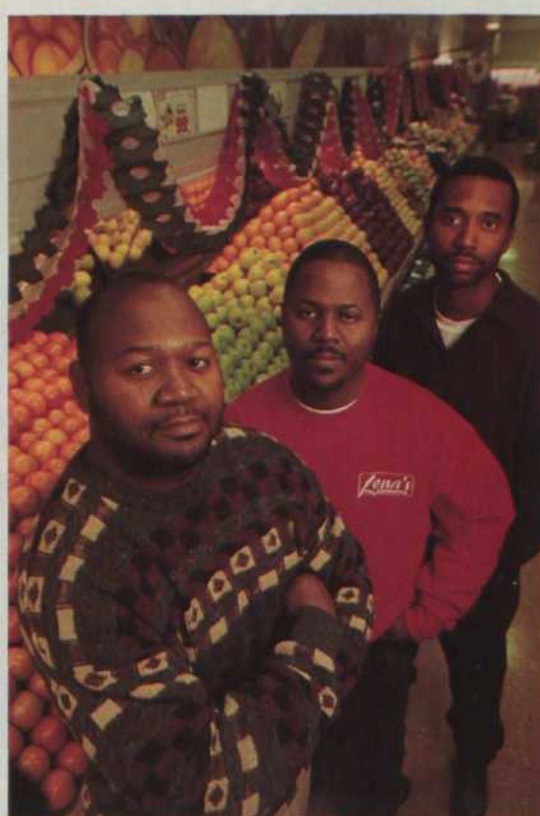


PHOTO: ©TODD BUCHANAN

Hiring *most of their workers from the area around their Milwaukee grocery store is one way that the Martin brothers—from left, Derrick, Anthony, and Gregory—connect with the neighborhood.*

Monty Mitzelfeld's family has been running Mitzelfeld's department store in downtown Rochester, Mich., for 50 years, and service has always been the store's specialty. "It's easy for chains to talk about service, but they can't really do it," says Mitzelfeld. "But we know our customers by name, size, and preference and help them with gift buying. And we drive stuff out to them all the time. It goes without saying."

Band together. Sometimes this can be done on an ad-hoc or informal basis. "Having sales and other things tied to special events targeted at the neighborhood, like church festivals, can be a big help, especially if you can put together a series of these things over the course of a season," says Arun Jain, a marketing professor at the University of Buffalo (N.Y.) who studies neighborhood retailing.

Often, however, challenges demand more organization, through a local chamber of commerce or retailer groups. In Baltimore, for example, the latest competitive pressure for retailers in the near-downtown Federal Hill section is a new, $10 million strip mall about two miles from their district.

But they're not crying in their crab soup. They began restoring their commercial luster—and preparing for the showdown—several years ago when they formed a business district to tax themselves and use the proceeds to promote Federal Hill.

They started an annual festival, drawing 20,000 people the first year. They began tapping into the heavy influx of baby boomers moving back into the area by attracting trendy restaurants and small specialty shops.

"You need strong business communities in order to make neighborhoods do well," says Sonny Morstein, owner of 100-year-old Morstein's Jewelers and a leader of the revival. "We're the engine that drives any great city."

Establish a presence in cyberspace. The World Wide Web has helped democratize retailing—it's a venue where big retailers don't necessarily dominate. Bonnie Clewans, for instance, expects Internet-generated sales of her company, the Bead Gallery, to make up 20 percent of revenues this year and to continue to gain quickly on the revenues from her two locations in Amherst, N.Y.

Brian O'Donnell, owner of Armitage Hardware in Chicago, has an exclusive arrangement with Weber-Stephen Products Co. to use the Web address *www.webergrills.com* to sell the company's products not only to local customers but also to people as far away as Singapore, Italy, and Britain.

The Web can add a potent dimension to retailers' collective efforts. For example, in a small house converted into an office just a couple of blocks from downtown Rochester, Mich., Harry Lee runs Virtual Rochester for the local Chamber of Commerce.

For per-store fees ranging up to just $25 a month, the site not only lists local stores but also gives Net surfers directions to the district, hyperlinks to stores' own Web sites, and real-time reports from events such as downtown festivals.

Underscore your uniqueness. Gilbert Smith believes that her philosophy of limiting her clothing store's selection enhances customers' shopping trips. "We stand alone and merchandise in a particular way, compared with a mall where you just have to look at so much," she says. "Come in here, and it's pre-edited for you."

Gillian and Jack Mathews had stores in six Seattle-area malls, selling goods made in Washington state. They sold those businesses and became neighborhood gardening-supply retailers. For them, the design of their two Ravenna Gardens stores, which was done by The Retail Group, has been crucial to snaring customers.

"The experience in the store is pretty earthy," Gillian Mathews says, "using old fixtures, old doors, and old garden equipment, lots of peeling paint, lots of water running in the store. It's quite an experience. Hopefully it's a little inspirational, or at least more than just a product on the shelf."

This tack sometimes means changing aspirations—as the Mathewses did—or scaling them back. In Richmond, Va., for example, downtown sporting-goods independent C.P. Dean recently downsized to its original single store after spending several years adding locations and trying to go head-to-head with superstores.

The store returned to its original emphasis on billiard supplies and to profitability, says David Urban, a marketing professor at Virginia Commonwealth University in Richmond who has studied the retailer's operations.

"If you're going to go it alone, you need to be able to identify a pretty solid market niche and just understand that it may be smaller than that of a mall store," Urban says.

PHOTO: ©DUANE HALL

Area church choirs, *such as the one at Friendship Chapel in Wake Forest, N.C., are "good, reliable customers" for Shalom Rokach, an independent clothier in Raleigh.*

Cater to ethnic tastes. As the U.S. population becomes increasingly diverse and the growth of ethnic groups continues to be centered in urban cores, it's only natural that ethnically oriented retailing should be a growing trend.

In Elgin, Ill., at least four new Hispanic grocery stores have opened in the past two years. Some offer unique services to differentiate themselves, such as one store that sells money orders and has a *taqueria,* or small restaurant, on the premises.

Taking the ethnic-grocery idea and amplifying it is Five Continents Ltd., an ethnic supermarket in a converted warehouse on Chicago's Southwest Side. Shoppers there can grab a bag of litchi, a sweet fruit from Asia, or choose from among 15 varieties of rice.

"We're taking the ethnic market to the next level," says owner Trung Truong, whose clientele includes not only Asians but also Latin Americans, Africans, and Middle Easterners.

Follow the national chains. Perhaps ironically, one of the best signs of life for independent downtown merchants is that many chains are following them back to the neighborhoods.

Luring national retailers such as Starbucks Coffee, The Limited, and Bath & Body Works has been an important part of the revitalization formula for Harrigan's firm, which is helping to recast more than a dozen downtown districts in California.

"Independents in those towns are seeing the value [of the chains] because they know their area has been stagnant, and with national retailers coming in, the vibrancy of an area can increase tenfold," Harrigan says.

For single-store owners, such vagaries are part of their continuing, sometimes generations-long efforts to redefine themselves as American cultural, economic, and demographic trends evolve. But Mitzelfeld, at his family's department store in Michigan, believes that things are going to continue to swing back the way of these businesses.

"Independents are going to be in a good position down the road partly because of changing demographics," he says. "People will just appreciate good service more and more. So we have to hang in there." NB

Malls Seek Single-Store Flavor

The average mall visit is 76 minutes, about a half-hour shorter than it was in the mall heyday of the 1980s, according to a survey by WSL Strategic Retail in New York City.

"The sense that it's just all the same national retail tenants in each mall lulls the consumer into the sense of, 'Why should I go there?'" says Patrick O'Leary, managing director and CEO of Chicago-based Landau & Heyman, developer and manager of nine regional malls and other shopping centers around the country.

Luring back independent retailers is "critically important" to changing that sentiment, says O'Leary. So his company has begun offering single-store owners inducements such as lease terms shorter than the decade-long commitment typical of malls; caps on rents that rise according to sales; and fewer demands for store-design changes.

Like other mall operators, Landau & Heyman is trying harder "to look for merchandising concepts that fill a niche that isn't being provided by permanent-tenant stores," O'Leary says.

By now, most malls have "kiosk" programs, allowing very small operators to rent carts or other mobile spaces in the mall on a short-term or low-rent basis.

Some, like the humongous Mall of America in the Minneapolis suburb of Bloomington, also help retail entrepreneurs crack into spaces in malls. Says Teresa McFarland, a marketing executive for the mall: "These stores add a lot to the flavor of the mall."

The Perfect Franchisee

There probably is no such thing as the ideal candidate, but a survey of the industry sheds light on desirable traits.

By Thomas Love

So you've decided that buying a franchise is the way for you to go into business. Great, if you're the kind of person who can be successful—and happy—as a franchisee.

Just what type of a person is that? *Nation's Business* asked a number of franchisors and franchisees what traits they think make for a successful and happy franchise owner. That question was posed also to the International Franchise Association (IFA), a nonprofit trade organization based in Washington, D.C., that represents more than 30,000 franchisees, franchisors, suppliers, educational institutions, and other franchise associations worldwide.

Naturally, the responses varied, but there were a number of common elements. And even conflicting answers raise issues that any prospective franchisee should consider seriously.

This diversity of thought on what makes a good franchisee underscores the need for a prospective buyer to research a franchise company thoroughly before making a financial commitment. Just as individual franchisees have particular characteristics, so do franchise companies.

Of course, one requirement of all franchisors is that a prospective franchisee have the required finances. Start-up costs for franchising can range from less than $5,000 to more than $500,000, according to the IFA. (See "Lending A Hand With Financing," January, for a detailed look at financing a franchise.)

Enjoy The Work

There is widespread agreement that successful franchisees are those who truly enjoy what they are doing. If they don't, they will be not just unhappy but also unsuccessful.

A person not only needs to be happy running a small business but also must enjoy dealing with the specifics of the franchise, whether it's taking care of pets, baking bread, or managing a hotel.

The IFA warns that people sometimes buy into a franchise thinking they will make a great deal of money, only to find out that they don't enjoy what they're doing. The organization says the adage "Know thyself" is especially relevant when looking for a franchise.

Tom Ivory, president and founder of Baker Street Artisan Breads, based in Bryn Mawr, Pa., says: "We're looking for someone who is going to make a commitment. We're looking for franchise partners to share our passion for bread baking and owning and running a business."

Stan Bumgarner, president of Baton Rouge, La.-based Critter Care of America, an in-home pet-sitting alternative to kennels, says: "We have to identify someone who is a real animal lover because in the course of a day one of our franchisees will spend time with 15 or 20 customers' dogs and cats and fish and birds. Someone who is just a numbers cruncher will not enjoy doing this."

PHOTO: ©BARRY STAVER

Optimism from the very start *is needed to do well as a franchisee, says Terry Plunkett, who with his wife, Donna, has a Critter Care of America pet-sitting franchise in Colorado.*

Terry Plunkett, who with his wife, Donna, has a Critter Care franchise in Colorado Springs, Colo., agrees, but he says suitability issues go beyond that. "You must be an animal lover, yes, but we consider ourselves to be in more of a people business than an animal business," he says.

He adds that you shouldn't go into a business because you love some particular aspect of that business but "because you want to be in business, you enjoy the process of business, and you perceive there's a need in the community that you can fill."

Alex Roudi, president and CEO of Coverall North America, a janitorial-services company based in San Diego, says: "First

FRANCHISING

and foremost, we look for a genuine motivation to own a business. We look for enthusiasm. How long have they been thinking about it? Have they been saving money? Have they ever owned a business before?"

Candice Cheeseman, who is opening a Baker Street Artisan Breads franchise in Tulsa, Okla., was interviewed in the midst of construction of her business. Asked about franchising, her first words were, "Right now, I'd say, 'Don't do it.'"

Although she immediately sighed and laughed, the pressures she faced were obvious. "Franchisees can't expect that everything is going to be done for them," she said. "They must have enough assertiveness, a desire to be their own boss, and patience—and they really, really have to want to do it."

> **"My job is to create the foundation on which the franchisee's entrepreneurship can operate."**
> —Jim Carpenter, Wild Birds Unlimited

Why did Cheeseman get into franchising? "I was a lawyer for 15 years and did not want to do that anymore," she explained.

The Experience Factor

There is not universal agreement on whether a franchisee must have experience in the field of the franchise, but franchisors generally are looking for business experience.

Joe Montefusco, who has a Tilden for Brakes Car Care Center franchise in Huntington, N.Y., thinks that experience in business and a good business sense are the most important attributes for a franchisee, but that a technical background is a plus.

"In our franchise, it's good to have an automotive background, but it's more important to know business," he says. "If you want to open an Italian restaurant, coming from another Italian restaurant would be better than coming from a Chinese restaurant. Still, if you're a good Chinese cook, you'll learn to cook Italian food."

The same is true, he says, for a good business person who is not an automotive expert but opens a Tilden franchise. The person will learn.

Gary Occhiogrosso, vice president for franchising with New York City-based Ranch *1, a restaurant chain that specializes in grilled chicken-breast sandwiches, says his ideal franchisee has a background with a multiunit food service and experience in real-estate development.

Baker Street's Ivory says: "Our profile

Preparing For The Purchase

If you've decided to buy a franchise, what do you do next?

The following advice is offered by the International Franchise Association, which represents more than 30,000 franchisors, franchisees, suppliers, educational institutions, and other franchise associations worldwide, and by FranNet, a consulting firm in San Diego.

The Steps To Take

- Talk to as many franchisees as possible.
- Talk to the franchisor you're considering. Get to know the key players in the company.
- Consult any and all advisers you believe can help you.
- Ask as many questions as you can. No question is too trivial.
- Compare different franchises in the same field.
- Read and understand the "Uniform Franchise Offering Circular," a detailed document that each franchisor must file with the Federal Trade Commission and provide to prospective franchisees.
- Know all the terms of your contract before you sign.
- Check the history and experience of the franchise's officers and managers.
- Research, research, research. The more you know, the better your decision is likely to be. Remember, only you can know if owning a particular franchise is right for you.

The Pitfalls To Avoid

- Don't hurry. Taking shortcuts in your research will decrease your chances of succeeding.
- Don't overextend your finances. Plan for more expenses than you think you'll have.
- Don't neglect to consult professionals such as lawyers and accountants. Saving on fees will deprive you of important information.
- Don't take anyone's word. It's your risk and your opportunity.
- Don't settle on just anything. Get the business you want, which may not be the first one that comes along.

calls for people who have food-service backgrounds, but that's not mandatory. However, we do want someone who understands what food service is all about."

Critter Care's Bumgarner says, "Typically, people with some business background do better, particularly people with a sales and promotional background, because they know how to get out and network, talk at chamber of commerce meetings, and build a network of other business people in the community for referrals."

Dan Bishop, president and CEO of THE MAIDS International, a residential-cleaning company based in Omaha, Neb., says, "People with a business background tend to be more successful, and people with experience with entry-level labor tend to have less difficulty in starting up.

"Those with a sales and marketing background," he adds, "tend to be the most aggressive and the fastest growers because they emphasize sales."

Bill Weatherford, senior vice president for Southeast-market franchise operations with Silver Spring, Md.-based Choice Hotels—which franchises the Sleep, Comfort, Quality, Clarion, Rodeway, Econo Lodge, and MainStay Suites brands—says he looks for lodging-industry experience in potential franchisees.

Although lodging experience is not a must for the franchisee, the company does insist on having experienced managers operating its properties. "Unlike many franchises, this is very management-intensive for one obvious reason—the doors are open 24 hours a day, 365 days a year," Weatherford explains.

Agreeing with that assessment is Bert Pooser, president of IMIC Hotels, a Choice Hotel franchisee with units in Georgia, Florida, Tennessee, Virginia, North Carolina, and South Carolina. In fact, he says that in his field, a franchisee needs more experience now than ever before.

"I have been in the business since 1964, and I think that today you need more experience than you ever have needed to get into and succeed in this business," Pooser says, explaining that even with ample financial backing, the hotel business is too competitive for an outsider.

He suggests that anyone without a great deal of experience in the field but who still wishes to go into the hotel-franchise business should lean heavily on an experienced developer and hire a good management company.

PHOTO: ©STEVE JENNINGS

The construction *of her Baker Street Artisan Breads franchise put pressure on Candice Cheeseman, but franchisees "can't expect that everything is going to be done for them," she says.*

A Place For Entrepreneurship?

Both franchisors and franchisees disagree among themselves on whether a franchisee needs to be a natural entrepreneur.

The IFA maintains that a franchisee must be willing to follow the franchisor's system because the key to franchising success is the consistency of product and service that customers find from one franchise operation to another. People who do not like to conform to a predetermined formula should be very careful about buying a franchise, the association says.

Franchisors agree that their systems must be followed, but they and their franchisees disagree on how much freedom and entrepreneurial spirit a franchisee should be able to exercise within the system.

Bumgarner says he wants a franchisee with "the delicate balance of someone who is an entrepreneur and aggressive from a business standpoint, and who wants to stay within the franchise system's guidelines.

"I find that individual to be a rare person," he adds. "A true entrepreneur doesn't want many guidelines, which leads to challenges for us."

Nonetheless, he continues, "I would rather err on the side of someone being very ambitious and energetic and needing me less than someone who's very passive and waits for me to do everything."

Mary Boyer of Evanston, Ill., who runs a THE MAIDS International franchise on the North Shore of Chicago, agrees about the need for this balance.

She believes a successful franchisee is someone "with some entrepreneurial spirit but who also is willing to follow the plan. If you decide to buy a franchise, you're really buying some systems that presumably are successful. You need to be willing to accept that and buy into the programs the franchise sets forth. If you want to reinvent the wheel, I don't think you would be suitable."

PHOTO: ©JOHN ZICH

Franchisees need to strike a balance *between entrepreneurial spirit and following the system, says Mary Boyer, who has a THE MAIDS International housecleaning franchise in Illinois.*

In any small business, the owner is going to set the direction and have the vision, but he or she must also be interested in using the expertise of others who have more experience, Boyer says.

Jim Carpenter, founder, president, and CEO of Indianapolis-based Wild Birds Unlimited, which sells birdseed and other supplies to bird-feeding hobbyists, says he is looking for pure entrepreneurs.

"I believe my job is to create the foundation on which the franchisee's entrepreneurship can operate at the local level," he explains. "Their job is to get people in the door, take care of them when they are

there, and create a relationship so they'll come back.

"We are looking for people who desire a foundation for their strategic plan to work on a local level," he adds. "The old view some franchisors had was that you didn't want entrepreneurs because they would not follow the system.

"I have always wanted entrepreneurs in a retail store because the only way growth is going to happen is for the local retailer to go out and make it happen. The results completely depend on the franchisee and the staff on the sales floor."

Bob Baskind, president of Tilden for Brakes Car Care Centers, based in Garden City, N.Y., says: "I want somebody looking to get into his own business, able to control his own future and destiny, but somebody that needs a little bit of help to get started. We're really looking for an entrepreneurial type of person who wants to do on a smaller scale just what I am doing."

> **Those who think buying a franchise will make them "immediate millionaires don't have a concept of what it really will take to make a franchise a success—a lot of work and a lot of time."**
>
> —Tom Ivory, Baker Street Artisan Breads

On the other hand, Weatherford of Choice Hotels says he is looking for franchisees who will work entirely within the system.

"We look for individuals who will support our system," he says. "We have a set of standards and specifications for operating, and we need consistency in order for the franchise to be effective.

"The customer doesn't like surprises," he adds. "The support from individual franchisees lends itself to a consistent experience that feeds the success of the system they bought into in the first place. You don't want a rebel."

Don Dozier, executive vice president of American Fastsigns Inc., a sign and graphics franchise company based in Carrollton, Texas, says: "We want people who have the willingness and discipline to follow the systems we have in place. A lot of people confuse being a franchise owner with being an entrepreneur, and frankly, we've taken a lot of the fun out of being an entrepreneur through the systems we've developed."

The Need For Hard Work

If there is disagreement about the benefits of entrepreneurship in a franchisee, there is none about the need for a franchisee to be willing to work long and hard hours.

Sheryl Caine, who runs a Wild Birds Unlimited store in North Olmsted, Ohio, says: "There has to be something in you that says you really want to work for yourself. Before I started this store, I worked for a bank. After a while, I thought that if I were going to be working that hard, I should be working for myself."

She says that a franchisee not only must really want to succeed but also must be willing to make a major commitment of time. "It's different from working long hours for someone else," she says. "You think about it all the time. My store closes at 7 p.m., I get home at 7:30, but it doesn't really stop there. I get supper and then do some paperwork. My husband and I jointly

own the store, but he has another job. He does all the financial and book work, so every conversation we have ends up having something to do with the business.

"But there's a lot of satisfaction, too," she adds. "I like running the show for myself and determining how things are going."

Don Marcum, who has Fastsigns franchises in Lexington, Ky., and Cincinnati, phrases similar thoughts somewhat differently. "Successful franchisees all seem to be very similar," he observes. "They are very competitive. The status quo is not good enough. Even in a franchise situation, they want to achieve more than the average franchisee, maybe for no other reason than just wanting to be No. 1."

Roudi, the president and CEO of Coverall, looks for "a high level of energy. That is very important, especially starting up. A person needs energy to deal with all the issues that will come up."

PHOTO: ©MIKE STEINBERG—BLACK STAR

Long hours *are a given for successful franchisees, says Sheryl Caine, who runs a Wild Birds Unlimited franchise in Ohio.*

Baker Street's Ivory says: "We want someone who understands it's a lot of work. We have come across individuals who think that by investing and buying a franchise, they will become immediate millionaires. They don't have a concept of what it really will take to make a franchise a success—a lot of work and a lot of time."

A Preference For Couples

Many franchisors are looking for two partners to divide the work and long hours associated with running a success-

Charting The Franchise Voyage

Three important considerations that often are overlooked in the search for a franchise are a system's age, its size, and the company's culture, says Ellice B. Gonzalez, president of Strategic Solutions, a Shoreham, N.Y., management consulting firm specializing in franchisor-franchisee relations and franchisee-support programs.

He compares the search for the perfect franchise to a trip, which can be exciting, scary, boring, enriching, lengthy, brief, costly, or a bargain.

The Old And The New

The age of a franchise company has a direct impact on the type of participation that a franchisee will have in the system, Gonzalez says.

A system that is new provides the opportunity to get in on the ground floor and have a say in how the system will develop. Young companies offer the potential for low initial franchise fees but might lack name recognition, be undercapitalized, possess no management track record, and have some bugs to be worked out.

While these problems are much less likely in older systems, other difficulties might arise in those organizations. Opportunities for a franchisee to help shape the company might be severely limited, as might opportunities for growth in the number of outlets owned.

"If the trip itself is as exciting to you as reaching the destination, then consider a young and growing company," Gonzalez says. "If you want to know where you are going and how you are going to get there, then look at well-established companies."

The Big And The Small

A small franchise system offers a more personal touch with few layers of bureaucracy, Gonzalez notes. But there might be a small budget and few support resources.

A large system might be more bureaucratic, limiting accessibility for franchisees and creating circuitous and frustrating communications. But large franchisors have built-in support systems and budgets ample enough to fund new projects and franchisee programs.

"If you like traveling in small groups, influencing the trip's course, and are excited rather then disturbed by the unknown, then look for a small franchise system," Gonzalez says. "If you like comfortable travel accommodations and help in carrying your luggage, and are satisfied having your suggestions filtered through a travel guide, then consider a large system."

The Question Of Culture

Traveling companions can make a trip memorable, for either positive or negative reasons, Gonzalez says. Some people like to travel alone, enjoying random and intermittent contact with others, while some travelers are comfortable only in a group. Franchise systems reflect these differing needs and values.

Corporate cultures can emphasize the values of togetherness or individuality, competition or consensus, and creativity or conformity.

The problem is that a company's corporate culture, unlike age and size, is not easy to identify. Gonzalez suggests talking with current and former employees and franchisees.

Here are questions that can help in the process:

- How do the system's members behave at a company meeting? Do they have a rah-rah attitude, or are they reserved and businesslike?
- What is the relationship between management and franchisees?
- Do people address one another formally or informally? What type of language is used—sports analogies, family metaphors, sexist comments?
- How do they dress?
- What is the company's mission statement? What are its core values?

Gonzalez points out that no individual can change a company's culture, so fitting in is important to avoid an uncomfortable experience.

"Before embarking on the trip, be sure you will be paddling in the same direction as everyone else in the canoe," Gonzalez says. "If you want to steer an independent course, find a company that lets each person have his own canoe."

Prospective buyers searching for the perfect franchise need to acknowledge the great variation that exists among franchisors, he notes. No system is ideal for everyone, just as no trip is ideal for every traveler. Selecting the perfect franchise depends on individual goals and needs.

If this exploration is conducted properly, there is a high probability that venturing into franchising can be a positive and memorable experience, Gonzalez says. That's true even if the trip includes some difficult moments and your luggage occasionally gets lost.

ful franchise.

Critter Care's Bumgarner says "a husband-and-wife team seems to work best. One maintains a full-time job while helping the other to build the franchise—and pays the rent until the franchise is up and running.

"Another benefit is that in our service business, it's necessary to have one person to answer the phones on the weekend while the other is out pet-sitting. This is a real challenge for a single person."

While THE MAIDS International's Bishop isn't necessarily looking for husband-and-wife teams, he agrees wholeheartedly that "it usually takes two people to get off the ground in our business."

"We do profiling to show people where their strengths are," he says. "We advise and caution them to hire to their weak side. If someone is strong in sales and marketing, we want him to bring in someone who can match that on the operational side of the business."

The Value Of Attitude

Franchisors also specifically look at the character or attitude of a potential franchisee.

Ivory of Baker Street Artisan Breads says, "We want someone who shares our mission statement to maintain certain quality standards, customer-service standards, and workplace standards."

Ranch *1's Occhiogrosso says the first thing he looks for is what the potential franchisee expects. "Are they expecting to make a million dollars, not to work anymore, and to boss people around, or are they expecting to go to work, build a business, create an organization, and use the Ranch *1 concept as a vehicle for their own development?" he says.

"I am looking for the awareness of the purpose a franchise actually serves, a vehicle to get from point A to point B," he explains.

Dozier of American Fastsigns says: "We want people who have a high degree of integrity, because they will be business partners with us. We want people who understand the value of that and who have the willingness and discipline to follow the systems we have in place.

"In any business experience, people are faced with new challenges," he points out. "There is always a certain amount of psychological pain in learning new areas. We understand that and are able to identify those areas that are going to be the personal pain thresholds the franchisee will have to overcome.

"The people who have the tenacity to push through those barriers are the ones who will become the most successful."

> "In any business experience, people are faced with new challenges. ... The people who have the tenacity to push through those barriers are the ones who will become the most successful."
>
> —Don Dozier, American Fastsigns

Plunkett, the Critter Care franchisee in Colorado, considers optimism a basic ingredient for a good franchisee. "If you're not optimistic about going into a business from the very beginning, you probably shouldn't be going into business. You probably will fail," he says.

THE MAIDS International's Bishop looks for "a willingness to work and a positive attitude. I look at the depth of the homework somebody has done—not just 'I've always wanted to have my own business'—and whether he has a list of questions when he comes here."

Choice Hotels' Weatherford says the most important factor in the relationship between franchisor and franchisee is the ability to build a partnership. "A lot of people have the mistaken impression that the relationship is real-estate based," he says. "For us it's a credit contract agreement, and we look for creditworthiness, substantial net worth, and liquidity."

Coverall's Roudi says he looks for stability: "Does the individual come from a stable life? Is the family rooted in the area?"

Joe Driscoll, who runs a Coverall franchise in Acton, Maine, says the first thing a franchisee needs is to be motivated. "You definitely have to be focused and dedicated and believe in yourself," he says.

The IFA points out that a successful franchisee should have a history of success in dealing with and interacting with people. "Your ability to interact well with your franchisor, other franchisees, employees, and customers cannot be emphasized enough," the group says.

The association also says a would-be franchisee must have family support for the idea because managing a franchise is a full-time job requiring great sacrifices of personal and family time. A franchisee's family should understand these tremendous demands.

Do you think you have what it takes to become a franchisee? Perhaps the first step toward answering that question is to know yourself well. Then listen to what the experts say. After all, they've been there, done that. NB

Tips From A Winner

Dick Rennick, founder and CEO of American Leak Detection, created the electronic leak-detection industry in 1974 and has expanded his franchise company to 289 sites in 37 states and 13 countries.

In March he was named 1997 Entrepreneur of the Year by the International Franchise Association, based in Washington, D.C., and Deloitte & Touche, LLP, one of the largest international accounting and consulting firms, based in Wilton, Conn.

Rennick grew up in a plumber's family and became familiar with what he calls the "bash and crash" method of finding leaking pipes. But all the while he thought there must be a better way, so he developed his electronic system. It can detect household and industrial leaks of all sorts, including water, sewage, and gas.

Rennick looks for four things in potential franchisees:

Attitude. A potential franchisee should look for something that he or she wants to do, Rennick says. For example, he says, a person who enjoys working with computers and teaching others to do so shouldn't get a franchise that sells sandwiches or cleans houses. He looks for this type of understanding in franchise applicants.

He advises that a prospective franchisee talk with as many franchisees in the company as possible. What may look like a chance to work with computers, he says, might in fact be a sales opportunity.

Skills. A person must have the skills necessary to succeed in a specific franchise, Rennick says. For his franchises, he looks for mechanical skills. A person who can't change the oil in a car or do repairs around the house won't fit in his company.

A Team. He likes to work with husband-and-wife teams. They allow one person to be out in the field detecting leaks while the other handles office duties. He adds that in some of his franchises, the person out in the truck is the wife.

Entrepreneurship. Rennick says that, unlike some franchisors, he doesn't want yes people. He wants people who think for themselves and can make spot decisions. He acknowledges that it sometimes can be trying to work with several hundred such franchisees, but he says that's his job, and he thinks the results make it worthwhile.

LEGISLATION

States Plug In To Deregulation

While electricity deregulation is being debated in Congress, 16 states have approved retail competition.

By James Worsham

Although Congress is still considering how to restructure the electric-power industry, the drive for competition among electricity providers is moving ahead steadily in the states.

Sixteen states representing about 44 percent of the U.S. population have approved competition among electricity providers. In those states, residential, business, and industrial customers can now—or soon will be able to—choose among various suppliers of electricity.

The deregulation movement is aimed at injecting competitiveness into the $212 billion-a-year electric-power industry, the last of the major U.S. industries to be deregulated. Over the past decade, a number of other industries—among them trucking, airlines, financial services, and telecommunications—have been freed to a large extent from government controls.

California, the most populous state, scheduled its implementation of retail competition for March 31 after a three-month delay because of computer problems. Massachusetts began competition March 1. The other 14 states are to begin phasing it in this year or within the next few years. Those states are Arizona, Illinois, Maine, Maryland, Michigan, Montana, Nevada, New Hampshire, New Jersey, New York, Oklahoma, Pennsylvania, Rhode Island, and Vermont.

Looking To California

"People are waiting to see how California shakes out," says Charles Gray, general counsel for the National Association of Regulatory Utility Commissioners, a group of state utility regulators. "That's the first big threshold people have to get past."

In California, full-scale deregulation was delayed because of problems in the computer links between the Independent System Operator and the Power Exchange. The Independent System Operator will operate the network of power transformers, lines, and towers. The Power Exchange will be the site—resembling a stock exchange—where electricity will be bought and sold. Under the California plan, residential and small-business users began receiving a mandatory 10 percent rate cut as of Jan. 1.

Several states have had pilot programs for small portions of their populations and are among the 16 that have set final deadlines for competition to begin, according to several surveys earlier this year.

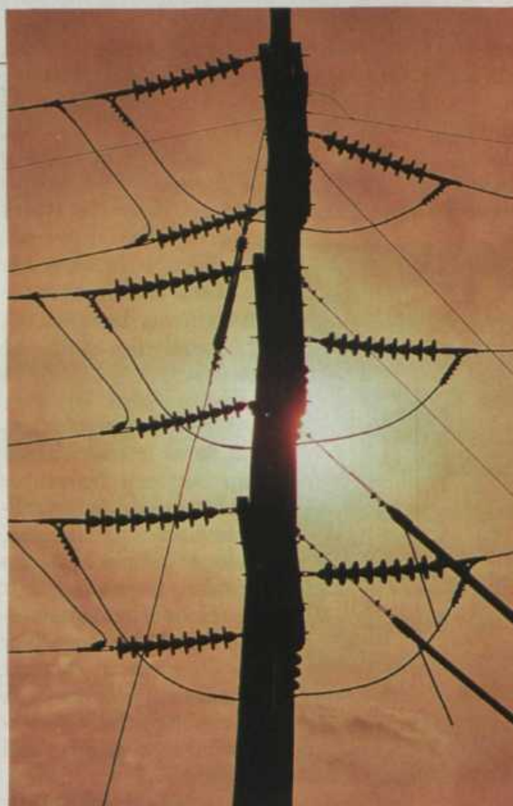


PHOTO: ©JIM PICKERELL—FOLIO, INC.

In New Hampshire, which has been conducting the nation's first statewide pilot program, statewide competition is to begin July 1. But a court challenge to some provisions in the order could delay full, statewide competition by all companies.

A pilot program is under way in Pennsylvania, and full deregulation is to be phased in for all customers beginning Jan. 1.

States where action could come next are Colorado, Connecticut, and New Mexico, according to the National Governors' Association.

The View From Washington

Several bills to deregulate the electric-power industry have been introduced in Congress. The House and Senate have held hearings, but no further action has been taken.

Rep. Dan Schaefer, R-Colo., chairman of the House Commerce Subcommittee on Energy and Power, is working with Democrats and other Republicans to reach a consensus on his restructuring bill, which he hopes the House will pass this year, a spokesman said. Schaefer's bill would require that all customers be able to choose their electricity provider by Dec. 15, 2000, either through state or federal action.

In the Senate, the Banking Committee has approved a bill that would repeal the 1935 Public Utility Holding Company Act, which limits the growth of multistate electric utilities. A vote by the full Senate is possible this spring.

Sen. Dale Bumpers of Arkansas, the senior Democrat on the Energy Committee, is pushing for a comprehensive deregulation bill. But prospects for action on it don't appear bright. A spokesman for Sen. Frank Murkowski, R-Alaska, the Energy Committee chairman, said there is no plan to move a comprehensive bill this year.

The Clinton administration has yet to propose any legislation, but in recent speeches, Energy Secretary Federico Peña has laid out several principles that the administration thinks are critical in any deregulation bill.

Even with competition, Peña says, there should be "universal service" provisions "with protections for small businesses and low-income families." Also, he says, deregulation should "advance sustainable energy goals and increase investments in energy efficiency and renewable technology."

Peña says that even though the administration has definite ideas about what ought to be in federal legislation, "states should have the flexibility to adapt competitive structures to their own particular needs."

As some states have moved ahead with electricity restructuring, many regulated utilities have created unregulated subsidiaries that seek to be competitive in selling not only electric power but also related items such as energy-saving appliances and various services.

The results of such initiatives and of the several statewide efforts at competitiveness could indicate how far and how fast industry restructuring will proceed. NB

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February Poll Results

Readers' Views

Lawsuit Dangers

The overwhelming majority of respondents to a Where I Stand poll think frivolous lawsuits are a problem, and most believe their business could not survive a lawsuit that cost millions of dollars.

The poll, in the February issue of *Nation's Business*, found that two of three respondents had been sued over product liability, employment law, a contract, or some other kind of dispute.

And an overwhelming majority believe that limits should be placed on the kinds of lawsuits a worker can bring against his or her employer. A similar-size majority wants people who file lawsuits to pay the defendant's legal fees if they lose.

About four out of five respondents think there should be a federal product-liability law to supersede conflicting state laws.

All but a small percentage of respondents believe that in states where local and state judges are elected, the judges should disqualify themselves in cases involving attorneys who have contributed to the judges' campaigns.

Here are the complete results of the poll:

Questions And Answers

Do you think frivolous lawsuits are a problem?

Yes 98%
No 2

Has your company ever been sued?

Yes, in a product-liability case 18%
Yes, in a dispute over employment law 17
Yes, in a contract dispute 8
Yes, in another type of case 22
Never been sued 35

Should plaintiffs have to pay your legal fees if they sue you and lose?

Yes 97%
No 3

Should limits be imposed on the scope and dollar amount of lawsuits a worker can bring against his or her employer?

Yes 93%
No 7

Should a federal law be enacted to supersede conflicting state laws on the liability of a company if someone using its product is injured?

Yes 78%
No 22

Could your company survive a major lawsuit that could cost millions of dollars?

Yes 5%
No 82
Don't know 13

Should elected local and state judges be required to disqualify themselves from cases involving attorneys who contributed to the judges' campaigns?

Yes 96%
No 4

Where I Stand

On Workers' Compensation

Fraud in state-run workers' compensation programs, designed to pay employees while they recover from work-related injuries or illnesses, costs about $5 billion a year, according to insurance-industry sources. Although efforts to reduce fraud have increased in recent years, the problem remains. (See the cover story, "Fighting Fraud In Workers' Comp," on Page 14.) These questions seek your views on this issue.

Results of this poll will be published in the June issue of *Nation's Business* and will be forwarded to administration officials and congressional leaders. Send the attached, postage-paid Reader Response Card. Or circle your answers and fax this page to (202) 463-5636.

1 Do you believe workers' comp fraud is increasing or decreasing?

1. Increasing
2. Decreasing
3. No recent change

2 Do you think your state is tough enough on workers' comp fraud to deter it?

1. Yes
2. No

3 Have you ever encountered workers' comp fraud in your workplace?

1. Yes
2. No

4 If so, who perpetrated the fraud? (Check all that apply.)

1. Worker
2. Medical provider
3. Lawyer
4. Other
5. Not applicable

5 If you answered "yes" to Question 3, what did you do when you discovered it? (Check all that apply.)

1. Ignored it
2. Called the insurance company
3. Discharged the employee
4. Took other action

6 What steps have you taken to reduce workers' comp fraud?

1. Talked to the insurance company
2. Talked to employees as a group
3. Distributed educational materials
4. Took other steps
5. Took no steps

7 Has your state passed any workers' comp reform law in the past three years?

1. Yes
2. No
3. Don't know

Send Your Response Today!

Family Business

Forging a campus connection; dealing with a spouse's concerns.

OBSERVATIONS

A New Way To Reach Young People

By Sharon Nelton

PHOTO: T. MICHAEL KEZA

Some universities are coming up with a way to educate students about—and involve them in—family business by creating student family-business organizations.

One of the trailblazers is the University of Toledo with its newly formed Family Business Student Association, which already has more than 40 members. "We're growing at a pretty rapid rate," says Greg Filbeck, associate director of the university's Center for Family Business and faculty adviser to the group.

In addition to trying to promote information about family businesses to the student body, says Filbeck, the group helps generate interest in a new major that the university is offering in entrepreneurship, family business, and small business.

The Toledo student group has just launched an internship program to provide members with work experience in family firms. The students also are invited to attend sessions of the university's family-business forum, an ongoing educational program for members of family-owned firms.

The Toledo club also helps students with career planning, and the group sponsors on-site visits at family-owned companies, including opportunities to meet with top executives.

At Tulane University in New Orleans, the 20 or so business-school students in the still-organizing Family Business Club also participate heavily in that institution's family-business forum. They not only can attend programs with the business-owning forum members but also can submit questions in advance of meetings so that speakers know what the young people's concerns are. The Tulane students are exposed to topics such as family meetings, sibling teams, and developing entrepreneurial values in children from affluent families.

How do the members of the forums feel about the students' participation?

Louisa W. Frederiksen, assistant director of the Tulane Family Business Center, says its members "enjoy having that fresh perspective of the eager, inquisitive young mind involved in the breakout discussions and in the interaction of the forum. It's also very good for Tulane in that it really gives them more of a feeling of being associated with an academic institution."

A family-business club can help students understand issues such as "how you might be viewed by other employees in the company who aren't family members" and how to deal with extra pressure placed on family members, says Marshall Farrer, a member of the Tulane club.

After Farrer receives his MBA in May, he will become the fifth member of the fifth generation to join his family's business, Brown-Forman Corp. The diversified company, based in Louisville, Ky., is known for brands such as Jack Daniel's whiskey, Southern Comfort liqueur, Fetzer Vineyards, Lenox china, and Hartmann luggage.

With the explosion of family-business centers across the country—close to 100 of them, according to the Family Firm Institute in Brookline, Mass.—Filbeck says more student groups are "inevitable." He foresees a time when there will be a national student organization tying the local organizations together.

In my view, the student clubs make it possible for adults and young people to learn from one another and take what they learn home to their own family businesses. The members of the student organizations are not members of the families whose firms are represented in the universities' forums. Thus, there's an emotional neutrality that may not exist when two or three generations within the same family get together. In other words, it's a safer environment for different generations to raise issues about family business and get each other's perspective.

Way to go, Toledo and Tulane. ■

MARK YOUR CALENDAR

April 9, Allentown, Pa.

"Creating Effective Boards for Family Businesses" is a morning session conducted by Lehigh Carbon Community College. Call Lois Yeakel at LCCC's Family Business Center at (610) 799-1703.

April 9, Westport and New Haven, Conn.

"Succession as Structural Change: Preparing for Siblings and Cousins to Take Charge" will be offered in the morning at Westport and the evening at New Haven. Call the University of New Haven Center for Family Business at (203) 932-7421.

April 16, Randolph, Mass.

"Discussing the Undiscussible" features speakers affiliated with the Harvard Negotiation Project. Call Paul I. Karofsky at the Northeastern University Center for Family Business at (781) 320-8015.

April 17, New Orleans

"The Art of Managing Family" is a program of the Tulane University Family Business Center; call (504) 862-8482.

April 22, Indiana, Pa.

"When It's Not Business As Usual: Overcoming Personal Challenges" is a program offering of the Center for Family Business of the Indiana University of Pennsylvania; call Cindy Iannarelli at (412) 221-8924.

April 22, Beaverton, Ore.

A "Succession Workshop" sponsored by Oregon State University will cover leadership, ownership, and relationship issues. For additional dates, call 1-800-859-7609.

April 28, Cleveland

An "Introduction to ESOP" workshop emphasizes using an employee stock ownership plan to provide continuity in closely held companies. For additional dates and locations, call the National Center for Employee Ownership at (510) 272-9461.

April 28, Columbus, Ohio

"The Perils of Pauline's Family Business," an interactive drama, will be offered by the Franklin University Family Business Center. Call (614) 220-8927.

Case Study: The 'Interfering' Wife

When Marie Barone expressed concern to her husband, John, the president of Barone's Fuel Oil, about the recent hiring of a female assistant dispatcher, he accused her of interfering. "Marie," he said, "you do a great job with the bookkeeping, but please—what happens on the floor is my business."

Marie had not told John that a few months earlier, Jessie, the new assistant dispatcher's predecessor, had come to Marie with complaints about her boss, Dennis. Jessie could hold her own with the drivers, but when Dennis made inappropriate remarks to her, she felt overwhelmed.

Chief dispatcher since the company was founded, Dennis often came in early on snowy mornings and weekends to make sure the trucks departed. Everyone knew that John really depended on Dennis to keep the trucks rolling.

No one, including Marie, felt comfortable complaining about Dennis to John. Marie suggested that Jessie deal with the comments directly, being clear with Dennis about her discomfort and the inappropriateness of his remarks. The advice worked for a while, but Jessie eventually quit.

Soon afterward, Marie overheard one of the drivers suggest that Jessie's replacement be a man. Marie was stunned at Dennis' response. "This company would be better off with another gal," he said. "We'd have to pay a guy more money—head of household and all that."

Now Marie is worried. Does Jessie's fate await the new female dispatcher? Is Dennis' bias against hiring a man a potential liability for the company? "How can I get John to understand my concerns?" she asks.

ILLUSTRATION: TROY THOMAS

Response 1

Protect The Company

Dennis is a key employee at Barone's Fuel Oil. He's dedicated and loyal and runs an important part of the business capably. His attitude about female employees is woefully out of date, however. He apparently considers women "cheap labor," and he treats them that way.

Marie has good reason to worry that Dennis will drive off the newly hired female dispatcher: History is a good predictor of behavior. A potential discrimination suit could result from his actions, but John, rather than Marie, will have a better chance of influencing Dennis' behavior. John must talk with Dennis.

Marie needs to approach John again about her concerns. She should emphasize that they have nothing to do with wanting to interfere with his work but have everything to do with "our business" and its well-being. They have a joint responsibility for identifying and fixing business problems when they occur.

Accordingly, she should encourage John to have a private discussion with Dennis; she can be certain that Dennis will listen to her husband. John must explain to Dennis the company's rationale for hiring women and tell him that the company cannot afford for him to run off good female employees. Harassing women not only is illegal but also deprives Barone's Fuel Oil of competent, committed employees.

There is an excellent chance that Marie's concerns will be heard and acted upon by John because she is not merely criticizing an employee but is teaming up with her husband to protect the best interests of their business.

PHOTO: ORENEE KNOBER

John J. Fitzpatrick, a family-business consultant with the Family Business Resource Center in Topeka, Kan.

Response 2

Use Business Terms

Marie, your worries about hiring a female dispatcher have two components: the company's potential liability and the conflict with John regarding your role in the company.

As the company bookkeeper, your responsibilities are defined. As a family member in the business, however, your role is less clear. Such ambiguity is particularly common in family businesses. John's response to your concerns suggests that he defines your role *only* as company bookkeeper.

Your first goal, then, in raising this issue again is to clarify your role. You need to make it explicit to John that you want to share information about Dennis' treatment of Jessie so that the company can be protected against the risk of a lawsuit. You need to emphasize that you are not undermining his authority but rather want to facilitate a better-informed management decision.

When speaking with John about Dennis' views on paying women less, be cautious about positioning yourself as the moral authority for the company. Don't imply that he or the company might be deficient in that regard.

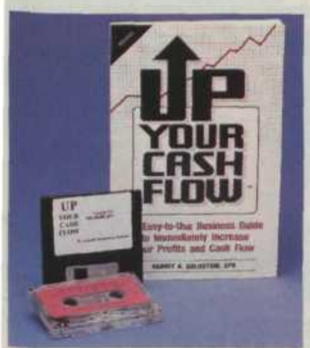
Rather, you need to suggest that the assistant dispatcher is important to the company and that retaining a good person in the job has a bottom-line impact. To avoid putting John on the defensive, couch your views in business terms and use language that emphasizes your concerns as a businessperson. Don't blame.

Finally, recognize the limits of your efforts. You can hope to influence John but not control his actions.

PHOTO: MIKE STEINBERG—BLACK STAR

Barbara G. Feinberg, a social worker and consultant in Cleveland and a principal in Futures, a practice that advises clients on the psychology of money.

This series presents actual family-business dilemmas, commented on by members of the Family Firm Institute and edited by Paul I. Karofsky, executive director of the Northeastern University Center for Family Business in Dedham, Mass. Identities are changed to protect family privacy. The authors' opinions do not necessarily reflect the views of the institute. Copyright © by the Family Firm Institute, Brookline, Mass. You can comment on this case study on the World Wide Web at *www.ffi.org*.



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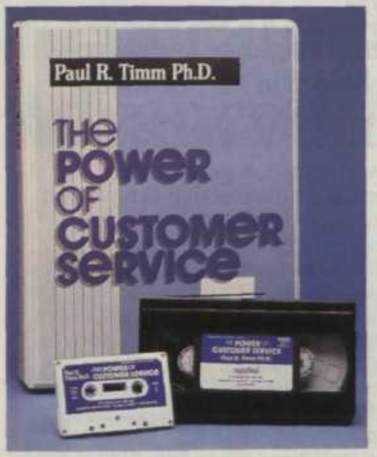

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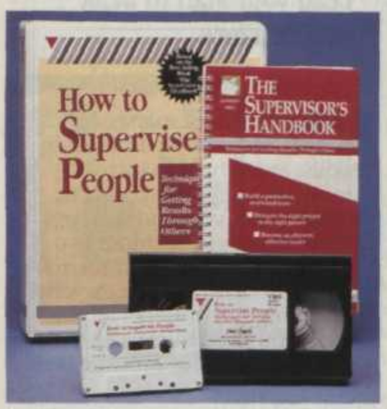

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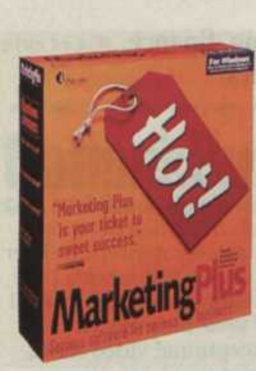

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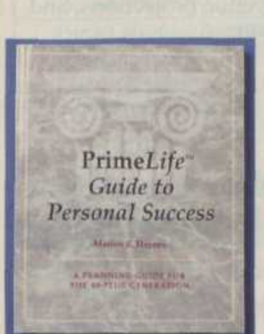

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Making It

Growing businesses share their experiences in creating and marketing new products and services.

Instrumental Thinking

By Sharon Nelton

Now that Mickey Mouse is a part of his life, George L. Hines knows that things will never be the same.

His firm, George's Music, Inc., has nine stores in Pennsylvania and Florida, including one—as of last fall—at the Walt Disney World Resort near Orlando, Fla.

Hines' road to the Disney entertainment empire goes back to Spring City, Pa. He was 22 and just out of college when he opened his first George's Music store there in 1977. He signed up teachers to give instruction in various musical instruments and students to take lessons.

Because he didn't have money for inventory, he put his own instruments up for sale. He had a teaching degree in history but loved music—he started on piano at age 6 and later learned to play drums, guitar, and saxophone.

"Music was something I felt really passionate about," says Hines. "After I graduated, I wanted to do my passion first, if I could." Hines' commercial landlord provided materials to build teaching studios. "I literally had no money," Hines says. It took him six weeks to build the teaching rooms. By opening day he had signed up 87 students.

Today the company, based in Berwyn, Pa., a Philadelphia suburb, has eight George's Music stores and the sizzling Guitar Gallery, which opened last year in the new Downtown Disney West Side entertainment complex at Disney World.

There it keeps company with such glitzy ventures as Bongos Cuban Cafe, owned by singer Gloria Estefan and her husband, Emilio; Virgin Megastore, owned by British recording magnate Richard Branson; and a Planet Hollywood restaurant.

Hines did not approach Disney; rather, Disney officials sought him out and invited him to make a proposal for a guitar-store concept that would work at Disney World. "It was like starting all over again, because I had to move out of my box," says Hines. He loved the challenge.

Hines knew that most Guitar Gallery customers would be vacationers and tourists rather than the hobbyists who come to his other stores. "We had to rethink everything," he says. "We had to rethink profit margins. We had to rethink the merchandising. We had to rethink the presentation, and we had to rethink the hiring process. We had to rethink what the consumer expected."

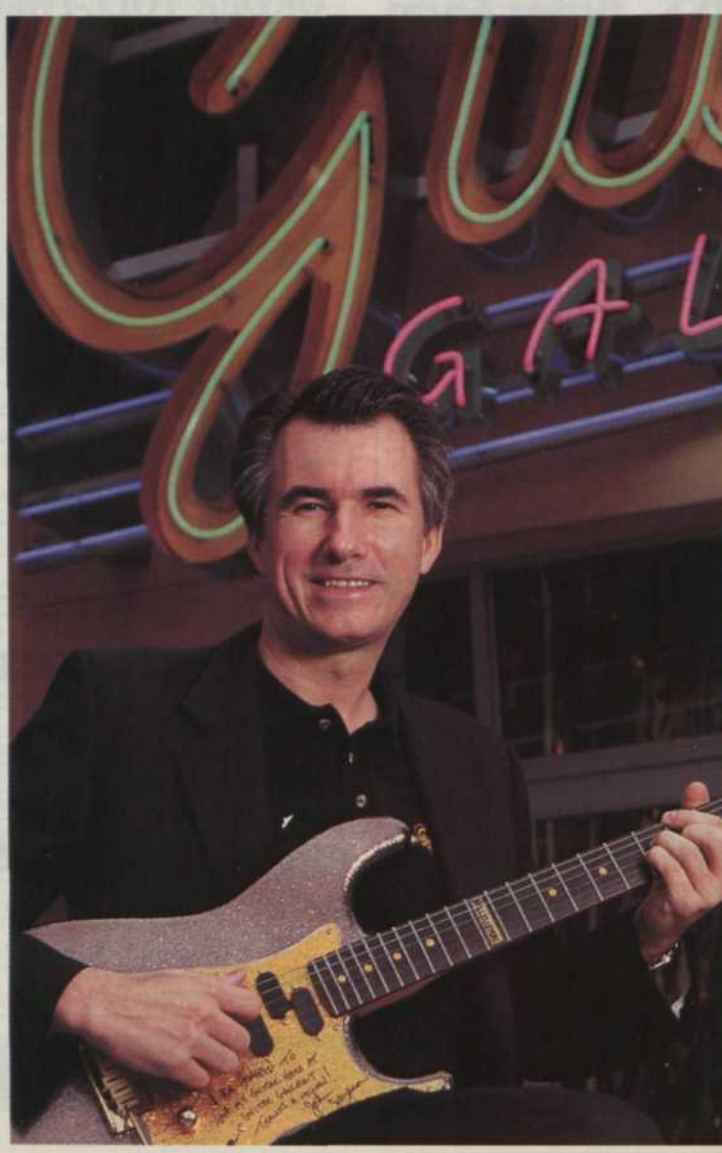


PHOTO: O'PHELAN M. EBENHACK—MERCURY PICTURES

When he got the go-ahead from Disney, Hines turned to Ace Architects of San Francisco for the design. He enlisted some of the world's top guitar makers—including Fender Musical Instruments Corp. and C.F. Martin & Co.—and asked them to come up with the best guitars they could make.

Hines wanted to show off "how good the current technology is in providing really high-quality instruments" and to offer the collectors' items of the future.

The result is a store that carries guitars ranging in price from $199 to $25,000. Its floor, featuring a guitar-neck design, is made of black stone, with brass frets. The decor includes theatrical lighting, video monitors spotlighting artist performances, and a guitar-shaped checkout counter. Customers can test even the most expensive guitars in an "audition" room.

Working with Disney has influenced Hines and his more than 80 employees, especially in the way they treat customers. Hines always felt that customers

Music is magic *for George L. Hines—even more so now that he's opened a guitar store at the Walt Disney World Resort.*

should be given more than they expect, but it was, he acknowledges, a "fuzzy" notion.

But he learned the importance of specifics when a Disney official pointed out a juggler at Epcot Center and said: "You didn't come to Epcot thinking you were going to see that juggler. That's extra."

Now, says Hines, George's Music gives new students a $40 "value card" entitling them to free merchandise and lessons. And he's looking for 40 to 50 more ideas for exceeding customers' expectations.

Hines plans to incorporate more entertainment into his stores. There will be more emphasis on gift items—the gift-buying customer, Hines has learned, is just as important as the instrument-playing customer. Hines also expects to open Guitar Gallery stores in other parts of the country.

After more than 20 years in business, Hines has not lost his passion for music. In fact, his encounter with Mickey Mouse has enhanced it.

"I happen to love music," he says. "It transcends the financial. It transcends the business."

When he helps someone pick up a musical instrument, he says, "I'm helping someone do something that they'll do for their whole life." ■

Men With A Message

By Steve Bates

Inspiration struck J.B. Seligman one day when he was placed on hold during a phone call to his bank. He heard a local radio station airing an ad for his bank's competitor, and he thought: What a lousy way to do business.

He wondered why companies didn't play messages about their own businesses for on-hold callers. Even if the caller waited only 10 seconds, Seligman reasoned, he or she might hear something that would spark interest in the business's product or service.

Seligman had found his calling. In 1983, he set up shop in Houston marketing continuous-loop cassette tapes that businesses could play for on-hold callers.

But the enterprise didn't start ringing up big sales until 1989, when Seligman met Byron Lancaster in Tampa, Fla., where Seligman had moved to be near a major client. Lancaster, a former Navy air-traffic controller, was working on a transmitting device for FM radio. They fused Lancaster's digital technology with Seligman's concept and launched the Message On Hold Network.

Companies of all sizes contract with Message On Hold to develop and record messages tailored to the firms' needs. Each client is provided a small machine to hook up to its phone system, typically in a utility closet. Recorded messages are processed by a digital chip in the machine. Message On Hold updates the messages when requested by customers, on average every two to three months.

Begun on a shoestring, the company now has 30 employees and 15,000 accounts, and it expects to do about $3 million in business this year. But building the enterprise hasn't been easy—in part because sales representatives constantly have to explain what it is they offer and why companies need it.

"When we walk in the door, people don't even know what we are," says Lancaster. He tells them that a digital chip generates a lengthy, recycling message at the touch of a telephone button. But often, says Lancaster, the potential client's next question is something like, "How are you going to put all that [message] on that little button?"

So, as Lancaster, Seligman, and their sales force spread the word about the Message On Hold Network, they are simultaneously educating the public about their emerging industry—even though they are paving the way for competitors to reap the benefits as well. "We want the industry to be strong," says Lancaster, 37. "There are 11 million businesses in the United States. ... There's enough for all of us."

Seligman, 44, came to Message On Hold after a variety of jobs. He started as a radio personality in Houston, then tried his luck as a rodeo bronc rider. He even manufactured and distributed mechanical bulls to share the fun with others. But, like Lancaster, he knew that a better opportunity had to be out there.

In its early days, Message On Hold grew rapidly. Like many entrepreneurs on the cutting edge, however, Lancaster and Seligman found that being there can be painful. "We grew too fast," says Lancaster.

There were so many salespeople that the firm couldn't adequately service its customers. Seligman and Lancaster retrenched and caught their breath for a couple of years. "Now we're ready to kick in the afterburners," says Seligman.

PHOTO: ©KEN TOUCHTON

Explaining their digital chip *to business customers is one of the biggest challenges for J.B. Seligman, left, and Byron Lancaster of the Message On Hold Network.*

The service, ranging in price from about $30 to $99 a month, focuses on building the customer's image more than on trying to sell nine kinds of widgets during an on-hold period that can last just a few seconds.

Message On Hold's offices exude energy and creativity. Music pours through the halls. Dress is informal, with certain days designated for Hawaiian garb or some other offbeat theme.

The two leaders—Lancaster is CEO and Seligman is president—complement each other. Lancaster is the more conservative and serious of the two; Seligman projects a more laid-back, folksy image, asking to be called just "J.B." But the two have lunch together every day, make every key decision jointly, and go their separate ways when the day is done. "We have become successful together," says Lancaster. NB

Direct Line

Experts answer our readers' questions about starting and running their businesses.

By Stephen Blakely

TECHNOLOGY SERVICES

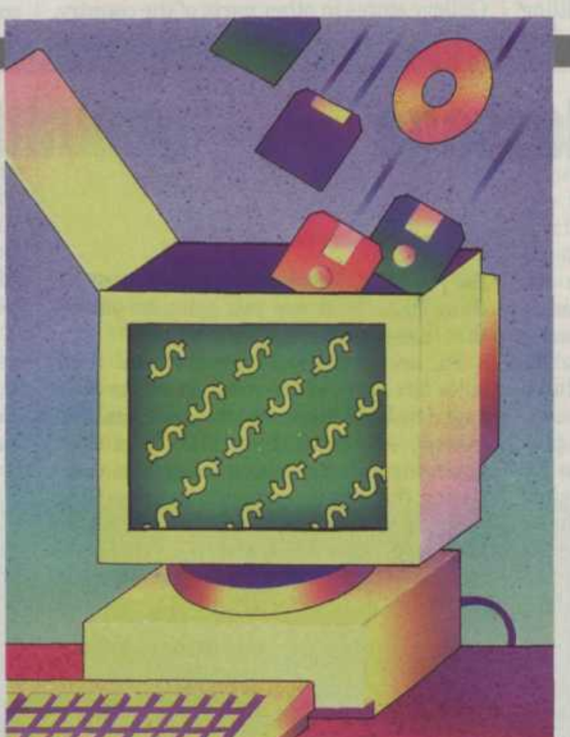
Adding Value To Computers

I have a software developing and consulting firm that also resells management software. We would like to expand our market by becoming a value-added reseller for computer hardware and software. Where could I get information on starting a computer value-added reseller company?
L.T., Bridgewater, N.J.

Value-added resellers, known in the computer industry as VARs or resellers, are firms that resell manufacturers' computers after installing features or programs that enhance the machines' value to users.

Besides customizing computers, resellers may help customers set up and debug their computers or may provide consulting services.

VARs deal more directly and repeatedly with users than do computer manufacturers and major distributors in the industry.



ILLUSTRATIONS: MARTHA VAUGHAN

A VAR's clients typically are companies, since their computer needs and budgets are big, but individuals may be clients as well. VARs also tend to specialize in a particular line of business that has a need for unique or customized software, such as accounting.

The Computing Technology Industry Association (CompTIA), based in Lombard, Ill., has more than 7,500 VAR members and offers networking, mentoring, and development resources. Membership costs $750 a year or more, depending on the size of the reseller. For more information, contact CompTIA at (630) 268-1818 or visit *www.comptia.org* on the World Wide Web.

There also are print and electronic magazines for resellers, and these are typically free to established firms. CMP Media, Inc., of Manhasset, N.Y., publishes two: *Computer Reseller News* and *VARBusiness*. For more information, call (847) 647-6834; you can also subscribe online at *www.cmp.com*.

A similar magazine, *Sm@rtReseller*, is published by Ziff-Davis Inc. of New York City. For information or to subscribe, call (847) 291-5223 or visit *www.zdnet.com*. ■

EMPLOYMENT

In The Hunt For Headhunters

What business or trade associations are designed specifically for employment agencies? Where can I locate the different kinds of trade associations, and are they available on the Internet?
J.T., Las Vegas

A comprehensive source of information on trade associations of all types is *National Trade and Professional Associations of the United States*, an annual directory ($85) published by Columbia Books in New York City. Call toll-free 1-888-265-0600 for more information. The directory may also be available in your local library.

The book lists nearly 60 trade associations related to employment, arranged by specialty and subject area. Most are professional organizations dedicated to furthering training, education, or career opportunities for their members.

One of the biggest groups, with about 59,000 members, is the American Counseling Association in Alexandria, Va. The organization has numerous divisions for various specialties, including the National Employment Counseling Association. Both groups can be reached at (703) 823-9800. Membership in ACA starts at $100 a year; membership in NECA costs $24 a year.

Groups whose members recruit senior and middle-level managers include the Association of Executive Search Consultants in New York City, at (212) 398-9556; the National Association of Executive Recruiters in Chicago, at (312) 701-0744; and the Association of Career Management Consulting Firms International in Washington, D.C., at (202) 857-1185.

Few employment-related trade groups have home pages on the World Wide Web. However, there are numerous employment-related sites, some national but most regional or local. Some allow you to post or read résumés, although these postings are unregulated and should be used with caution.

One way to find employment agencies in your region is through the Yahoo! Yellow Pages *(yp.yahoo.com)*, part of one of the main Internet search-engine sites. Also, most major regional newspapers have Web sites that include local job-related information. ■

HOW TO ASK

Have a business-related question? Mail or fax your typewritten query to Direct Line, *Nation's Business*, 1615 H Street, N.W., Washington, D.C. 20062-2000; (202) 463-3102. Or transmit your question via electronic mail to *directline@nbmag.com*. Be sure to include your address and telephone number.

Because of the high volume of letters, we can answer only those that are chosen for publication. Questions may be condensed, and writers will be identified only by initials and city.

Yuletide Heralds For Retailers

I am interested in opening a store specializing in traditional and unique Christmas-tree ornaments and decorations. Where can I find out about domestic and foreign suppliers and manufacturers of such items?
M.F., Ashford, Ala.

The trade association representing this retailing niche is NOEL—the National Ornament and Electric Lights Christmas Association in Moorestown, N.J. The group was formed in 1975 to promote what is called the trim-a-tree or holiday-products industry, specifically Christmas products and related businesses.

Corporate membership starts at $550 a year and rises according to sales volume. Call (609) 231-8500 for more information.

Another useful source of information about the Christmas-ornaments business is *Selling Christmas Decorations*, a magazine published twice a year (January and March) by Edgell Communications in Randolph, N.J. The magazine is free for holiday retail companies or $43 for both issues for nonretailers; to order, call (978) 262-9610.

On the Internet, you can spend hours searching the dozens of listings at *www.christmasmarket.com*. This is primarily a marketing and information-sharing site for companies that sell Christmas ornaments and other decorations.

While Christmas is generally a joyous

time, it can be a tough business, notes Wayne Bronner, manager of Bronner's CHRISTmas Wonderland in Frankenmuth, Mich., which describes itself as the world's largest Christmas store. The family business was started in 1945 and has grown into a year-round operation and tourist site, and it also offers decorations for observances other than Christmas.

The company designs, produces, imports, and exports more than 50,000 varieties of trims and gifts. Bronner notes that the store's employment ranges from a low of 250 to a Christmas-season high of 470. "It's a very seasonal business. A lot of smaller firms just plain close after Christmas," Bronner says. "We've been at it for 50 years and have weathered a lot of obstacles."

Looking For A Fit In A Shoe Store

I'm thinking of starting a shoe store in our community of approximately 15,000 people. Where can I find out more about this kind of business?
L.B., Fergus Falls, Minn.

The National Shoe Retailers Association in Columbia, Md., has a "New Store Starter Kit" that helps people who are interested in starting a retail shoe store. Call 1-800-673-8446 for information.

The group offers low-cost or free consulting for start-ups. The membership fee depends on store size and starts at $195 a year. NB

Editorial

Reforming Consumer Bankruptcy Law

When individuals use bankruptcy to evade their debts, their creditors are seen as the only losers.

That view is inaccurate. In a landmark study on the broad economic impact of bankruptcy, the WEFA Group, an international economic-research and consulting organization based in Eddystone, Pa., declared:

"The economy as a whole incurs financial costs due to the personal-bankruptcy system, and these costs ultimately must be absorbed by all consumers, both through higher prices and more-expensive credit."

WEFA estimates the total losses, to be shared by all Americans, will be more than $220 billion between 1997 and 2000.

And many of the people walking away from their debts are not by any means the people the bankruptcy system was designed to help—individuals overwhelmed by debt through little or no fault of their own and in need of a fresh start.

George J. Wallace, counsel to the American Financial Services Association in Washington, D.C., says: "Sharp increases in the number of consumer bankruptcy cases have ... led some to conclude that bankruptcy has lost its stigma—that many individuals file bankruptcy not because they need to but simply because it's easier than paying their bills."

Economic Costs Of Consumer Bankruptcies

Estimated costs—in billions of dollars—for canceled debts, collection efforts, and legal expenses in bankruptcy proceedings.

	Annual Cost	Cumulative Cost
1997	$ 44.3	$ 44.3
1998	50.9	95.2
1999	58.6	153.8
2000	67.4	221.2

SOURCE: "THE FINANCIAL COSTS OF PERSONAL BANKRUPTCY," A STUDY BY THE RESOURCES PLANNING SERVICE, WEFA GROUP

The sharp increases cited by Wallace have occurred since 1978, when Congress made the bankruptcy system more debtor-friendly. Consumer bankruptcy filings totaled 172,000 that year; the annual total then grew rapidly, reaching nearly 1.35 million last year.

That growth occurred when the economy was for the most part strong and expanding, when bankruptcies could reasonably have been expected to fall, or at least to increase slowly. But the increase from 1995 to 1997 alone, a time of uninterrupted boom, was 40 percent.

The record number of filings in a healthy economy, their toll on the economy, and the evidence that too many people who could pay all or part of their bills are exploiting the bankruptcy system are factors behind the drive in Congress to bring law more in line with reality.

The bipartisan Consumer Bankruptcy Reform Act is sponsored by Sens. Charles E. Grassley, R-Iowa, and Richard J. Durbin, D-Ill. That bill and similar measures sponsored in the House by Reps. Bill McCollum, R-Fla., and George W. Gekas, R-Pa., would, basically, put far greater emphasis on ability to pay in consumer bankruptcy proceedings.

Grassley said in introducing the measure that it will "discourage casual bankruptcies by sending a clear signal that you can't file for bankruptcy and walk away from your debts if you have the ability to repay some portion of those debts. This is a simple and straightforward idea whose time has come."

In filing for protection under current bankruptcy law, consumer-debtors nearly always choose between Chapter 7, which allows discharge of obligations, and Chapter 13, in which a schedule of payments is arranged by the debtor and creditors under court supervision. (Chapter 11, providing for reorganization of the debtor's finances, is also an option, but less than 0.1 percent of personal bankruptcies fall in this category.)

Chapter 7 filings represent 70 percent of consumer bankruptcy filings and more than 90 percent of the losses.

Under the Grassley-Durbin bill, bankruptcy judges could shift debtors to Chapter 13, or dismiss a case outright, if the debtor could repay 20 percent or more of the debts from which he or she is seeking relief. Creditors could ask judges to move debtors to Chapter 13 or dismiss their cases.

Surveys show that Americans oppose by overwhelming majorities the idea that individuals who incur debts and are able to pay all or part of them should have legal permission to walk away from those obligations.

Inaction on reform would carry a high price.

As the Financial Services Association's Wallace says in arguing for enactment of reform legislation: If bankruptcy filings continue to increase at the current rate, "the problem will only get larger and the American bill-paying consumer will only pay more." NB

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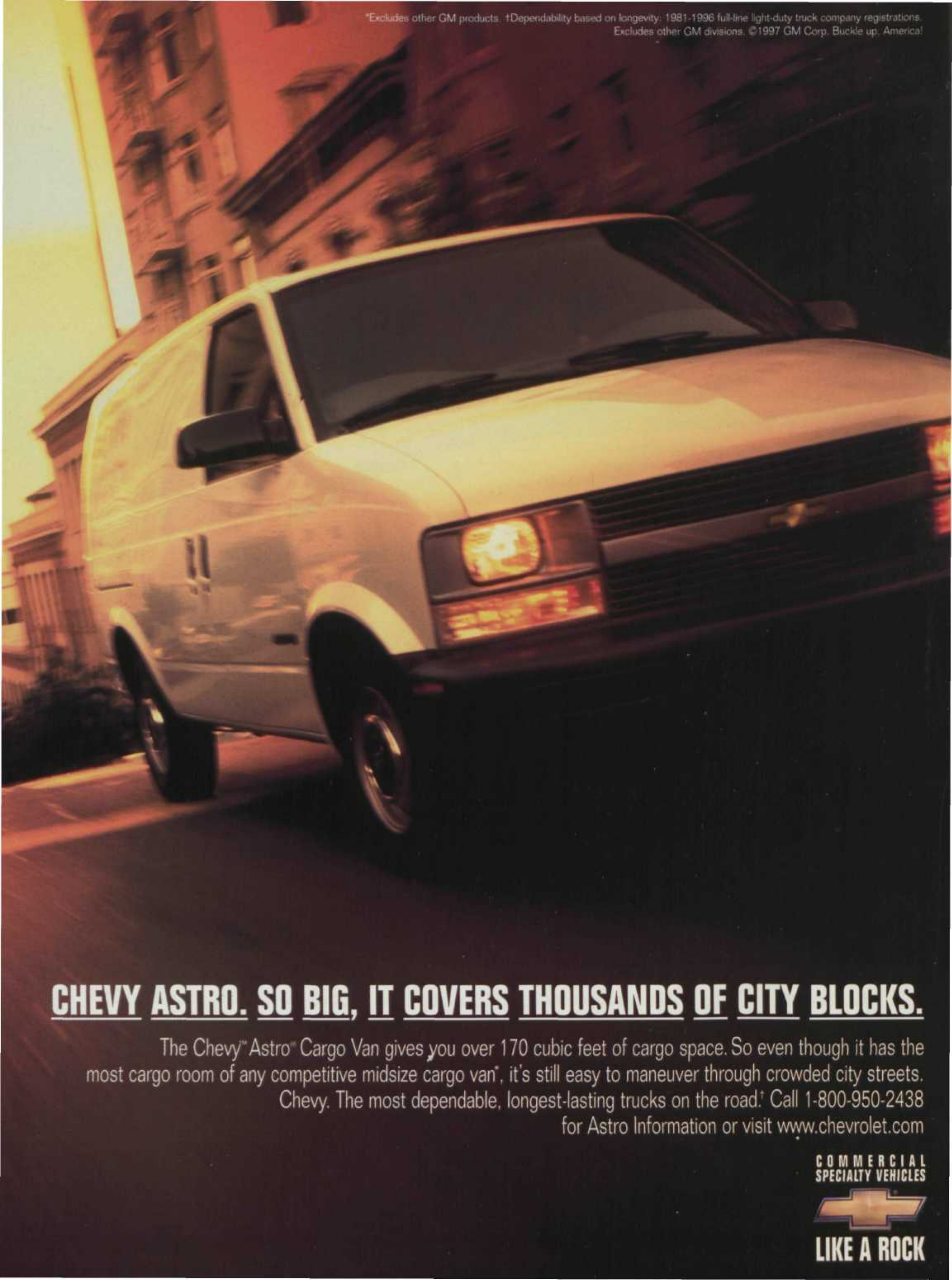
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SUPPLEMENT TO Nation'sBusiness APRIL 1998

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U.S. Chamber of Commerce

Powell Calls For Action

In the keynote address at the Chamber's annual meeting, retired Gen. Colin Powell, chairman of America's Promise—The Alliance For Youth, urged business to help prepare young people for the work force.

Retired Gen. Colin Powell, speaking at the annual meeting of the U.S. Chamber of Commerce, urged business to become more involved in helping young people gain the skills necessary to enter the work force of the 21st century.

Powell, chairman of the Joint Chiefs of Staff under Presidents Bush and Clinton, is now chairman of America's Promise—The Alliance For Youth. The organization, based in Alexandria, Va., works with businesses and

Continued On Page 12A

OSHA Victory

The U.S. Chamber won a delay in the implementation of an OSHA program after the organization filed a lawsuit challenging the agency's actions. Page 2A.

Lawmaker Awards

See whether your senators and representative received the Chamber's Spirit of Enterprise Award for the votes they cast in 1997. Pages 4A-7A.

Health Care

Strong opinions and conflicting views on new health-care proposals suggest fireworks to come in the emerging debate over additional mandates. Page 13A.

■ Global Leadership

Action Urged On IMF Measure

The U.S. Chamber of Commerce has called on Congress to approve additional funding for the International Monetary Fund (IMF), which the Chamber called the "key to preserving U.S. global leadership."

The IMF, in which 182 countries participate, makes loans to financially troubled nations, usually in exchange for reforms in their financial, industrial, and trade policies to preclude further economic crises. Countries that borrow from the IMF, based in Washington, must repay the loans with interest.

The Chamber is leading a coalition of businesses—known as the Ad Hoc Coalition for IMF Replenishment—urging lawmakers to approve an additional U.S. contribution to the IMF of $18 billion.

About $3.5 billion would go to an emergency fund for countries facing severe economic crises, including ailing economies in Asia, notably South Korea, Thailand, and Indonesia. The other $14.5 billion represents the United States' share of an increase in the IMF's capital base recently approved by IMF member countries.

The U.S. contribution to the IMF is set at 17.8 percent of the total fund, currently about $35 billion.

"Effective and timely restabilization of financial systems is strongly in the interest of the U.S. and all countries engaged in international trade and investment," said U.S. Chamber President and CEO Thomas J. Donohue at a Feb. 11 news conference announcing formation of the IMF coalition. "A U.S. leadership lapse in this critical economic realm may have dire political and even national-security consequences."

PHOTO: © CHAS GEER

At a Feb. 11 news conference on Capitol Hill, U.S. Chamber President and CEO Thomas J. Donohue, at the dais, was joined by, from left foreground, former U.S. Trade Representative Carla Hills, former U.S. Labor Secretary Robert Reich, and, in the background, other members of a business coalition that is backing additional U.S. funding for the International Monetary Fund.

In March, the House Banking and Financial Services Committee approved legislation authorizing the $18 billion U.S. contribution to the IMF. The measure is sponsored by House banking panel Chairman Jim Leach, R-Iowa.

But some lawmakers want any additional U.S. contribution to be accompanied by measures to reform the IMF, such as requirements that loan agreements with countries be made public and that outside economic analysts be allowed to review the reforms the IMF would impose on nations that borrow from the fund.

Donohue said that the U.S. contribution "should be made quickly—without attachment of unrelated policy objectives that would slow down congressional action—before developments pass us by and it is too late for assistance to have any meaningful impact."

In urging Congress to approve the IMF funding to deal with the Asian financial crisis, Donohue said that if the United States doesn't act, "millions of small companies will be affected."

■ Legal Victory

Chamber Wins Court Action To Delay OSHA Program

The U.S. Chamber of Commerce won a critical victory Feb. 17 in its dispute with the Occupational Safety and Health Administration over the agency's Cooperative Compliance Program.

The U.S. Court of Appeals for the District of Columbia Circuit in Washington issued an emergency stay of the workplace-safety program after considering the Chamber's Jan. 22 lawsuit against OSHA and the Chamber's request to block the program. The court's order prohibits implementation of the program, which the business organization says coerces firms into complying, until the court decides on its legality.

Under the program, companies are required to establish a written safety and health program, to identify and correct all workplace hazards, to set up worker safety committees, and to provide OSHA with safety and health data above what is currently required by law.

Although the program has been billed as voluntary, more than 14,000 companies in 15 targeted industries received letters from OSHA requiring that they comply with the program's "instructions" by Feb. 17 or face mandatory inspections.

The program targeted industries—and companies in those industries—that had injury rates that were twice the national average.

In its lawsuit, the Chamber asked the court to stop implementation of the program and strike it down. The court is expected to rule in the fall on whether to nullify the program.

In its brief to the court, the Chamber contended that the "instructions" in OSHA's program are, in fact, rules that should have been subject to public notice and comment.

OSHA has tried for several years to implement as regulations several of the provisions in the Cooperative Compliance Program. The rules have been rejected or postponed by Congress, in part because of business opposition.

Also, the Chamber stated, inspections based on a firm's failure to comply with the OSHA program—rather than on evidence of a workplace violation—would be unconstitutional.

Board Meeting

Principles On Surplus, Social Security Adopted

PHOTO: ©KEN TOUCHTON

Former U.S. Defense Secretary Dick Cheney, chairman, president, and CEO of Halliburton Co., addressed the U.S. Chamber board of directors at its February meeting.

The board of directors of the U.S. Chamber of Commerce, meeting Feb. 23, approved statements on two key issues facing Congress: how to use a federal budget surplus and how to reform Social Security.

The Congressional Budget Office, which recently updated its projections, expects a surplus of $8 billion in fiscal 1998.

The board-adopted statement says the Chamber recognizes that there are laudable uses for any surplus, such as paying down the national debt, cutting taxes, funding new investments in transportation, and fixing entitlement programs. But the organization also recognizes that taxes collected as a percentage of the gross domestic product are the highest since 1945.

The statement also says that federal trust funds should not be used to mask deficit spending in other areas of the federal budget.

These principles, according to the board, will guide the Chamber as the debate unfolds:

- The Chamber should evaluate and support or oppose individual federal spending proposals on their own merits.
- The Chamber should evaluate tax proposals based on their impact on the economy and with the realization that current levels of taxation are excessive.
- Deficit spending must be avoided.
- Funds collected by the government for a specific purpose, such as transportation investment, should be fully expended for that purpose.
- Whether or not to run a budget surplus and how to use it should be a reflection of well-thought-out fiscal policy that takes into account spending needs and priorities, funding options, the tax burden, and the country's debt position.

On reform of the Social Security system, the Chamber board noted that the current pay-as-you-go system is unsustainable.

According to the system's trustees, Social Security is projected to go broke in 2029.

As efforts to reform the system progress, the Chamber board stated, reform proposals should:

- Address the system's long-term financing problem. However, no reform should unduly burden future generations to pay for the benefits of the current generation.
- Utilize the efficiencies of the capital market to provide for advanced funding of Social Security obligations and to encourage long-term investments.
- Require individuals, employers, and the government to have a role in ensuring retirement-income security.
- Not reduce significantly the current levels of Social Security retirement income and benefits.
- Encourage continuation of the voluntary employer-sponsored retirement system.
- Prohibit any government control over the investment of Social Security contributions.
- Require that adjustments in benefits made for inflation reflect actual increases or decreases in the cost of living.
- Require that any increases in the retirement age reflect actual trends in age and health at retirement.
- Prohibit increasing payroll taxes as a way to bring the system into balance.
- Not involve means-testing of benefits.

Leadership

New Officials Head Chamber Board

William G. Little and Will F. Nicholson Jr. assumed the positions of chairman and vice chairman, respectively, of the U.S. Chamber of Commerce for 1998-99 at the business federation's annual meeting Feb. 23.

Little is president and CEO of Quam-Nichols Co., Inc., of Chicago. The 130-employee firm manufactures commercial and industrial audio equipment.

Little, who has served on the Chamber's board of directors since February 1994, succeeded Michael S. Starnes, chairman, president, and CEO of M.S. Carriers, Inc., a trucking company in Memphis, Tenn.

PHOTO: T. MICHAEL KEZA

William G. Little, U.S. Chamber chairman for 1998-99.

PHOTO: BERKELEY-LAINSON, DENVER

Will F. Nicholson Jr., U.S. Chamber vice chairman for 1998-99.

Nicholson is chairman of Rocky Mountain BankCard System of Denver. He has served on the Chamber's board since April 1990.

In accepting the chairmanship of the Chamber, Little told the board that he plans to focus on work-force preparation during his tenure.

"Business is facing one of its toughest challenges," said Little. "We have been given the responsibility of finding productive and rewarding work for millions of people who need jobs but have been trapped in a welfare system that poorly equipped them with skills for the workplace."

THE SPIRIT O

The U.S. Chamber of Commerce presented its annual Spirit of Enterprise Award to 62 senators and 242 representatives at a Feb. 5 reception on Capitol Hill. The lawmakers,

PHOTOS: T. MICHAEL KEZA AND KEN TOUCHTON

U.S. Chamber President and CEO Thomas J. Donohue, left, talks with Spirit of Enterprise winner Rep. John A. Boehner, R-Ohio, chairman of the House Republican Conference.

Bruce Josten, left, the Chamber's executive vice president for government affairs, discusses issues with House Majority Leader Richard K. Armey, R-Texas.

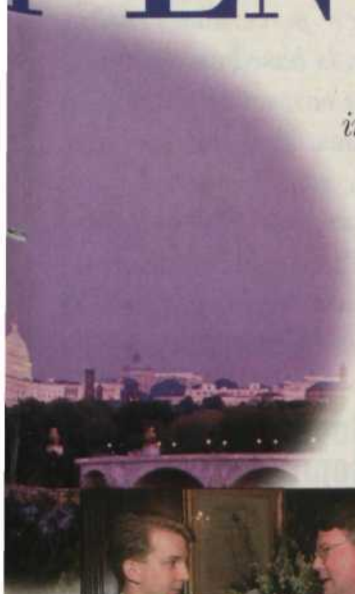
Bill Morley, a director with the Chamber's Office of Congressional and Public Affairs, reviews lawmakers' Chamber vote ratings with Rep. Jane Harman, D-Calif., who was honored with a Spirit of Enterprise Award.

Among the award winners was, above, Sen. Frank H. Murkowski, R-Alaska, left, shown with Chamber Congressional and Public Affairs Director Doug Loon. At right, award recipient Rep. F. Allen Boyd Jr., D-Fla., right, talks with Joe Theissen, a director with the Chamber's Office of Congressional and Public Affairs.

Rep. Barbara Cubin, R-Wyo., accepts her award from Chamber President and CEO Thomas J. Donohue.

Rep. William M. Thomas, R-Calif., left, chairman of the House Ways and Means Subcommittee on Health, discusses health-care issues with Chamber Senior Vice President Lonnie Taylor and Cecelia Adams of the Chamber's Office of Congressional and Public Affairs.

F ENTERPRISE



including those featured here, were honored for their strong support of business during 1997. (For the complete list of winners, see Pages 6A and 7A.)

Above, Rep. Anne M. Northup, R-Ky., right, talks about issues with, from left, Chamber lobbyists Randy Johnson, J.T. Taylor, and Tina Tabb. At left, Chamber President and CEO Thomas J. Donohue, left, converses with Senate Assistant Majority Leader Don Nickles, R-Okla.

Above, Rep. Merrill Cook, R-Utah, right, talks with Ed Kaleta of the Chamber's Office of Congressional and Public Affairs. In photo at right, Randy Johnson, left, the Chamber's vice president for labor policy, discusses labor issues with Rep. Cass Ballenger, R-N.C.

Rep. Chris John, D-La., right, talks with Brian Wild of the Chamber's Office of Congressional and Public Affairs.

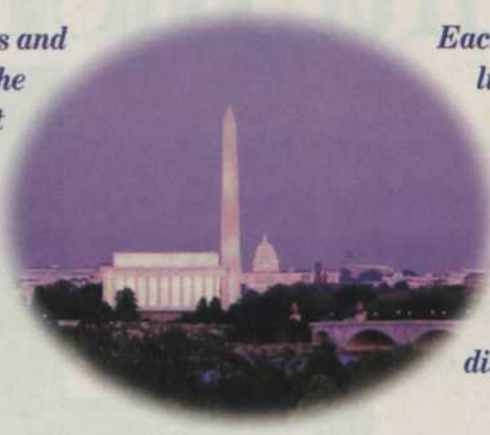
Chamber President and CEO Thomas J. Donohue, left, congratulates Spirit of Enterprise winner Rep. J.C. Watts, R-Okla.

Above, Rep. Roger Wicker, R-Miss., left, accepts his award from Chamber Senior Vice President Lonnie Taylor. At right, Rep. Thomas Ewing, R-Ill., left, talks with Chamber Executive Vice President Bruce Josten.

THE SPIRIT OF ENTERPRISE

Listed here are the 62 U.S. senators and 242 representatives who received the U.S. Chamber of Commerce Spirit of Enterprise Award for votes cast in 1997.

The award is given to lawmakers who last year supported the Chamber's position on legislation at least 70 percent of the time.



Each member's percentage rating, listed below, is based on an analysis of votes cast on selected business issues. For the complete analysis, which includes all lawmakers, see the February issue of The Business Advocate.

Representatives are listed by district within their states.

Senate

ALABAMA	
Jeff Sessions (R)	70%
Richard C. Shelby (R)	90
ALASKA	
Frank H. Murkowski (R)	100
Ted Stevens (R)	80
ARIZONA	
Jon L. Kyl (R)	70
John McCain (R)	100
ARKANSAS	
Tim Hutchinson (R)	80
COLORADO	
Wayne Allard (R)	80
DELAWARE	
Joseph R. Biden Jr. (D)	70
William V. Roth Jr. (R)	100
FLORIDA	
Bob Graham (D)	80
Connie Mack (R)	80
GEORGIA	
Max W. Cleland (D)	80
Paul Coverdell (R)	90
IDAHO	
Larry E. Craig (R)	100
Dirk Kempthorne (R)	100
ILLINOIS	
Carol Moseley-Braun (D)	70
INDIANA	
Richard G. Lugar (R)	90
IOWA	
Charles E. Grassley (R)	100
Tom Harkin (D)	70
KANSAS	
Sam Brownback (R)	100
Pat Roberts (R)	90
KENTUCKY	
Mitch McConnell (R)	100
LOUISIANA	
John B. Breaux (D)	70
Mary Landrieu (D)	70
MAINE	
Susan M. Collins (R)	80
Olympia J. Snowe (R)	70
MICHIGAN	
Spencer Abraham (R)	90
MINNESOTA	
Rod Grams (R)	80
MISSISSIPPI	
Thad Cochran (R)	90
Trent Lott (R)	90
MISSOURI	
John Ashcroft (R)	70
Christopher S. Bond (R)	100
MONTANA	
Max Baucus (D)	70
Conrad Burns (R)	78
NEBRASKA	
Chuck Hagel (R)	100
NEVADA	
Richard H. Bryan (D)	70
NEW HAMPSHIRE	
Judd Gregg (R)	100
NEW MEXICO	
Pete V. Domenici (R)	100
NEW YORK	
Alfonse M. D'Amato (R)	70
NORTH CAROLINA	
Jesse Helms (R)	70
OHIO	
Mike DeWine (R)	80
OKLAHOMA	
Don Nickles (R)	100
OREGON	
Gordon Smith (R)	100
Ron Wyden (D)	70
PENNSYLVANIA	
Rick Santorum (R)	90
RHODE ISLAND	
John H. Chafee (R)	100
SOUTH CAROLINA	
Strom Thurmond (R)	80
SOUTH DAKOTA	
Tim Johnson (D)	70
TENNESSEE	
Bill Frist (R)	100
TEXAS	
Phil Gramm (R)	80
Kay Bailey Hutchison (R)	100
UTAH	
Robert Bennett (R)	100
Orrin G. Hatch (R)	100
VERMONT	
Jim M. Jeffords (R)	100
VIRGINIA	
Charles S. Robb (D)	70
John W. Warner (R)	100
WASHINGTON	
Slade Gorton (R)	100
Patty Murray (D)	70
WISCONSIN	
Herbert H. Kohl (D)	80
WYOMING	
Michael B. Enzi (R)	70
Craig Thomas (R)	90

House Of Representatives

ALABAMA	
1 Sonny Callahan (R)	90%
2 Terry Everett (R)	80
3 Bob Riley (R)	78
4 Robert B. Aderholt (R)	80
5 Robert E. "Bud" Cramer Jr. (D)	80
6 Spencer Bachus (R)	90
ALASKA	
AL Don Young (R)	80
ARIZONA	
1 Matt Salmon (R)	70
3 Bob Stump (R)	90
4 John Shadegg (R)	80
5 Jim Kolbe (R)	100
6 J.D. Hayworth (R)	90
ARKANSAS	
3 Asa Hutchinson (R)	90
4 Jay Dickey (R)	80
CALIFORNIA	
1 Frank Riggs (R)	100
2 Wally Herger (R)	90
4 John Doolittle (R)	80
15 Tom Campbell (R)	80
19 George P. Radanovich (R)	80
20 Calvin Dooley (D)	90
21 William M. Thomas (R)	100
23 Elton Gallegly (R)	100
25 Howard "Buck" McKeon (R)	90
27 James E. Rogan (R)	80
28 David Dreier (R)	100
36 Jane Harman (D)	80
39 Edward Royce (R)	80
40 Jerry Lewis (R)	80
41 Jay Kim (R)	100
43 Ken Calvert (R)	100
44 Sonny Bono (R)*	90
45 Dana Rohrabacher (R)	80
47 Christopher Cox (R)	75
48 Ron Packard (R)	100

49 Brian Bilbray (R)	80
51 Randy Cunningham (R)	100
52 Duncan Hunter (R)	80

COLORADO

3 Scott McInnis (R)	90
4 Bob Schaffer (R)	90
5 Joel Hefley (R)	80
6 Dan Schaefer (R)	90

CONNECTICUT

4 Christopher Shays (R)	70
6 Nancy L. Johnson (R)	80

DELAWARE

AL Michael Castle (R)	90

FLORIDA

1 Joe Scarborough (R)	70
2 F. Allen Boyd Jr. (D)	80
4 Tillie Fowler (R)	90
6 Cliff Stearns (R)	70
7 John Mica (R)	100
8 Bill McCollum (R)	90
9 Michael Bilirakis (R)	100
10 C.W. "Bill" Young (R)	100
12 Charles Canady (R)	100
13 Dan Miller (R)	100
14 Porter J. Goss (R)	80
16 Mark Foley (R)	100
18 Ileana Ros-Lehtinen (R)	90
21 Lincoln Diaz-Balart (R)	70
22 E. Clay Shaw Jr. (R)	100

GEORGIA

1 Jack Kingston (R)	80
3 Michael Collins (R)	80
6 Newt Gingrich (R)	100
7 Bob Barr (R)	80
8 Saxby Chambliss (R)	88
9 Nathan Deal (R)	90
10 Charles Norwood (R)	90
11 John Linder (R)	100

IDAHO

1 Helen Chenoweth (R)	70
2 Michael Crapo (R)	70

ILLINOIS

6 Henry J. Hyde (R)	70
8 Philip M. Crane (R)	80
10 John Edward Porter (R)	90
11 Jerry Weller (R)	80
13 Harris W. Fawell (R)	90
14 J. Dennis Hastert (R)	100
15 Thomas Ewing (R)	80
16 Donald Manzullo (R)	90
18 Ray LaHood (R)	80
20 John M. Shimkus (R)	80

INDIANA

3 Tim J. Roemer (D)	70
4 Mark Souder (R)	80
5 Steve Buyer (R)	100
6 Dan Burton (R)	80
7 Edward A. Pease (R)	90
8 John N. Hostettler (R)	80

IOWA

1 Jim Leach (R)	100
2 Jim Nussle (R)	100
3 Leonard L. Boswell (D)	70
4 Greg Ganske (R)	70
5 Tom Latham (R)	100

KANSAS

1 Jerry Moran (R)	90
2 Jim R. Ryun (R)	100
3 Vincent K. Snowbarger (R)	100
4 Todd Tiahrt (R)	90

KENTUCKY

1 Edward Whitfield (R)	100
2 Ron Lewis (R)	78
3 Anne M. Northup (R)	100
4 Jim Bunning (R)	90
5 Harold Rogers (R)	90
6 Scotty Baesler (D)	70

LOUISIANA

1 Bob Livingston (R)	100
3 W.J. "Billy" Tauzin (R)	100
4 Jim McCrery (R)	100
5 John C. Cooksey (R)	100
6 Richard H. Baker (R)	100
7 Chris John (D)	100

MARYLAND

1 Wayne Gilchrest (R)	90
2 Robert Ehrlich Jr. (R)	90
6 Roscoe Bartlett (R)	90
8 Constance A. Morella (R)	90

MICHIGAN

2 Peter Hoekstra (R)	100
3 Vernon Ehlers (R)	90
4 Dave Camp (R)	100
6 Fred Upton (R)	90
7 Nick Smith (R)	90
11 Joseph Knollenberg (R)	100

MINNESOTA

1 Gil Gutknecht (R)	100
2 David Minge (D)	70
3 Jim Ramstad (R)	90
7 Collin Peterson (D)	70

MISSISSIPPI

1 Roger Wicker (R)	100
3 Charles "Chip" Pickering Jr. (R)	90
4 Mike Parker (R)	90
5 Gene Taylor (D)	80

MISSOURI

2 James Talent (R)	80
4 Ike Skelton (D)	78
6 Pat Danner (D)	70
7 Roy Blunt (R)	90
8 Jo Ann H. Emerson (R)	90
9 Kenny C. Hulshof (R)	90

MONTANA

AL Rick A. Hill (R)	80

NEBRASKA

1 Doug Bereuter (R)	90
2 Jon Christensen (R)	100
3 Bill Barrett (R)	100

NEVADA

1 John Ensign (R)	80
2 James A. Gibbons (R)	80

NEW HAMPSHIRE

1 John E. Sununu (R)	100
2 Charles Bass (R)	90

NEW JERSEY

3 Jim Saxton (R)	80
5 Marge Roukema (R)	80
7 Bob Franks (R)	90
11 Rodney Frelinghuysen (R)	90
12 Michael Pappas (R)	70

NEW MEXICO

2 Joe Skeen (R)	100
3 Bill Redmond (R)	100

NEW YORK

2 Rick Lazio (R)	80
13 Susan Molinari (R)**	80
19 Sue W. Kelly (R)	70
22 Gerald B.H. Solomon (R)	78
24 John McHugh (R)	80
25 James T. Walsh (R)	80
27 Bill Paxon (R)	90
30 Jack Quinn (R)	78
31 Amo Houghton Jr. (R)	90

NORTH CAROLINA

2 Bob Etheridge (D)	70
3 Walter Jones Jr. (R)	80
5 Richard M. Burr (R)	90
6 Howard Coble (R)	90
7 Mike McIntyre (D)	80
9 Sue Myrick (R)	90
10 Cass Ballenger (R)	100
11 Charles H. Taylor (R)	100

OHIO

1 Steve Chabot (R)	100
2 Rob Portman (R)	90
4 Michael G. Oxley (R)	100
5 Paul E. Gillmor (R)	89
7 David Hobson (R)	90
8 John A. Boehner (R)	100
12 John R. Kasich (R)	80
15 Deborah Pryce (R)	100
16 Ralph Regula (R)	90
18 Bob Ney (R)	80
19 Steven C. LaTourette (R)	90

OKLAHOMA

1 Steve Largent (R)	90
2 Tom Coburn (R)	78
3 Wes W. Watkins (R)	89
4 J.C. Watts (R)	89
5 Ernest Istook Jr. (R)	89
6 Frank D. Lucas (R)	90

OREGON

2 Robert F. Smith (R)	100

PENNSYLVANIA

5 John E. Peterson (R)	100
6 Tim Holden (D)	70
7 Curt Weldon (R)	89
8 Jim Greenwood (R)	90
9 Bud Shuster (R)	90
10 Joseph M. McDade (R)	80
13 Jon D. Fox (R)	90
16 Joseph R. Pitts (R)	100
17 George W. Gekas (R)	100
18 Mike Doyle (D)	70
19 William F. Goodling (R)	90
21 Philip S. English (R)	70

SOUTH CAROLINA

2 Floyd Spence (R)	90
3 Lindsey Graham (R)	90
4 Bob Inglis (R)	90

SOUTH DAKOTA

AL John R. Thune (R)	90

TENNESSEE

1 William L. Jenkins (R)	100
2 John J. Duncan Jr. (R)	80
3 Zach Wamp (R)	80
4 Van Hilleary (R)	90
5 Bob Clement (D)	80
6 Bart Gordon (D)	70
7 Ed Bryant (R)	100
8 John S. Tanner (D)	80

TEXAS

1 Max A. Sandlin (D)	70
2 Jim Turner (D)	80
3 Sam Johnson (R)	100
4 Ralph M. Hall (D)	80
5 Pete Sessions (R)	90
6 Joe Barton (R)	78
7 Bill Archer (R)	100
8 Kevin P. Brady (R)	100
11 Chet Edwards (D)	70
12 Kay Granger (R)	100
13 William "Mac" Thornberry (R)	100
17 Charles W. Stenholm (D)	90
19 Larry Combest (R)	100
21 Lamar S. Smith (R)	100
22 Tom DeLay (R)	100
23 Henry Bonilla (R)	90
26 Richard K. Armey (R)	100

UTAH

1 James V. Hansen (R)	90
2 Merrill Cook (R)	80
3 Christopher Cannon (R)	90

VIRGINIA

1 Herbert H. Bateman (R)	100
2 Owen B. Pickett (D)	80
4 Norman Sisisky (D)	70
5 Virgil H. Goode Jr. (D)	80
6 Bob Goodlatte (R)	100
7 Thomas J. Bliley Jr. (R)	100
10 Frank R. Wolf (R)	90
11 Thomas M. Davis III (R)	100

WASHINGTON

1 Rick White (R)	100
3 Linda Smith (R)	70
4 Doc Hastings (R)	100
5 George R. Nethercutt Jr. (R)	100
8 Jennifer Dunn (R)	100

WISCONSIN

1 Mark Neumann (R)	90
2 Scott Klug (R)	70
6 Thomas E. Petri (R)	80
9 F. James Sensenbrenner Jr. (R)	80

WYOMING

AL Barbara Cubin (R)	71

* Died Jan. 5, 1998
** No longer a member of Congress

■ Ballot Results

91% Oppose Medicare Expansion

More than 91 percent of the respondents to the latest Business Ballot poll of U.S. Chamber of Commerce members believe that Medicare should not be expanded to cover more people.

Agreeing with President Clinton that it should be expanded were 8.7 percent of the respondents.

Clinton has proposed lowering the eligibility age for Medicare to 62 from 65.

The trustees of Medicare—the health-care program for the elderly and those with long-term disabilities—said in their latest projection that the program will go broke by 2007 unless changes are made.

On another federal entitlement question, 63.5 percent of the respondents said they would like to see privatization of the Social Security system considered as an option to help preserve it.

Among the other choices offered for preserving the program, 14.9 percent of the respondents said the eligibility age for receiving benefits should be raised, and 15 percent said benefits should be tied to income. Just 6.6 percent said that the amount of income subject to the Social Security tax should be increased.

In expressing their views on who could lead more effectively on the issues of Social Security and Medicare reform, 66.4 percent said Congress, and 6.3 percent said Clinton. Just over 27 percent said Congress and the president would be equally effective.

PHOTO: LAURENCE L. LEVIN

Rep. William M. Thomas, R-Calif., right, administrative chairman of the National Bipartisan Commission on the Future of Medicare, looks over Business Ballot poll results on Medicare reform with Joe Theissen, a director in the U.S. Chamber's Office of Congressional and Public Affairs.

■ Business Outlook

Confidence In The Economy Wanes

Business owners' confidence in America's economy fell at the outset of 1998 after finishing strong in 1997, according to the U.S. Chamber of Commerce's Business Ballot member poll.

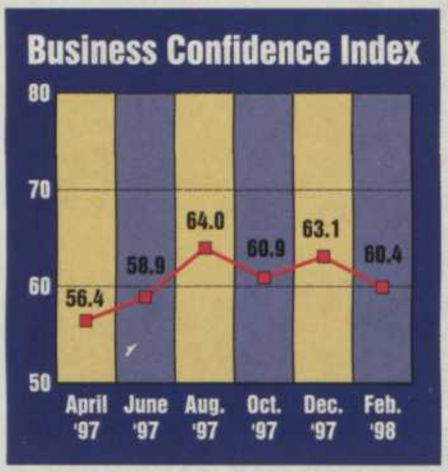
The Business Confidence Index, based on the bimonthly poll, fell to 60.4 in February from 63.1 in December, perhaps as a result of the continuing financial crisis in Asia.

The December index was the highest since August 1997 and the second-highest since December 1994. (See the chart.)

The Business Confidence Index is based on responses to the three economic-outlook questions in each Business Ballot poll. The ballot also surveys readers' attitudes on other timely issues, such as legislation pending in Congress.

In the most recent economic poll, respondents who said they expected the economy to improve over the next six months dropped to 27.6 percent of the total from 35.3 percent in December.

Those who believed the economy would worsen in the next six months rose slightly, to 18.6 percent from 17.9 percent in December. Nearly 54 percent said they expected no change in the economy, compared with 46.8 percent in the December poll who expected no change.



As for their own firms, 45.4 percent—down from 50.6 percent in December—said they expected sales to increase over the next six months.

The percentage of respondents expecting sales to drop was 12.1 percent in February, compared with 12.2 percent in December. Expecting no change were 42.5 percent of the respondents, up from 37.2 percent in December.

On the employment front, 27.5 percent of the respondents said they expected to add jobs over the next six months, down from 31.4 percent in December. A smaller share of respondents in February—7 percent, compared with 8.5 percent in December—said they expected to cut jobs.

Respondents expecting no change in the size of their work forces accounted for 64.8 percent, compared with 60.1 percent in December.

Please respond to this month's Business Ballot, which was in the plastic wrapper with this magazine and your April Nation's Business.

GAIN UPDATE
GRASSROOTS ACTION INFORMATION NETWORK
U.S. Chamber of Commerce Federation

Join The Chamber's Network Of Legislative Activists

The Grassroots Action Information Network of the U.S. Chamber of Commerce (GAIN) helps Chamber members become more involved in the legislative process. It helps them communicate effectively with their senators and representatives and alerts them to action on federal legislation important to business.

Chamber members can join GAIN—at no charge—to receive timely information on legislative issues and developments of interest to them. As legislation advances in Congress, GAIN members receive issue "Backgrounders," "Updates," "Action Calls," and "Vote Watches." Information can be sent by fax or mail, depending on each GAIN member's preference.

To join GAIN, fill out the application below and on the following page and mail it to: GAIN, U.S. Chamber of Commerce, P.O. Box 88, Kensington, Md. 20895-9893, or fax this page and Page 10A to (301) 468-5119. Be sure to select only the issues on which you want to be kept informed on a very timely basis.

SECTION I: General Information *(Please type or print clearly.)*

❑ Mr. ❑ Mrs. ❑ Ms. ❑ Dr.

Name ______________________________
First Middle Initial Last Suffix

Title ______________________________

Business/Organization ______________________________

Business Address ______________________________

City ____________ State ______ ZIP ________

Telephone Number ( ) ____________ Fax Number ( ) ____________

How would you prefer to receive GAIN information? ❑ Fax ❑ Mail

In the future, e-mail will be an option for receiving GAIN information. If you would like to receive information via e-mail, please inform us of your address: ______________________________

Industry or Field (check all that apply):

❑ Agriculture
❑ Communication
❑ Construction
❑ Distribution
❑ Electric, Gas
❑ Finance/Insurance/Real Estate
❑ Health Care
❑ Information/Technology
❑ Manufacturing
❑ Mining
❑ Retail
❑ Services
❑ Transportation
❑ Other ____________

Number of Employees:

❑ Under 10
❑ 10-49
❑ 50-99
❑ 100-249
❑ 250-499
❑ 500-4,999
❑ 5,000+

How did you find out about GAIN?

❑ Mail
❑ U.S. Chamber Representative
❑ *The Business Advocate*
❑ U.S. Chamber Briefing
❑ Meeting ____________
❑ Publication/Newsletter ____________
❑ Other ____________

For associations and chambers of commerce only:

Number of Members:

❑ Under 500 ❑ 500-999 ❑ 1,000-2,999 ❑ 3,000+

Type of Member:

❑ Company ❑ Individual ❑ Both

Operating Budget:

❑ Under $49,999
❑ $49,999-$99,999
❑ $100,000-$499,999
❑ $500,000-$999,999
❑ $1 million-$5 million
❑ Over $5 million

GAIN UPDATE

SECTION II: Issue Interest

Listed below are the Chamber's legislative-issue priorities. These are the public-policy areas identified by U.S. Chamber members as being of the greatest importance to business and the national economy.

Please check the box (✓) beside the issues in which you want to become involved. You must select issues to participate in GAIN. The numbers beside the issues are for coding purposes.

Economic Policy

- ❑ 131 Alternative Minimum Tax Reform
- ❑ 132 Balanced-Budget Amendment
- ❑ 133 Capital-Gains-Tax Reform
- ❑ 134 Cash Method of Accounting
- ❑ 135 Environmental Remediation Costs
- ❑ 136 Estate- and Gift-Tax Reform
- ❑ 137 Economic and Employment Impact of Federal Legislation and Regulation
- ❑ 138 Expensing of Equipment
- ❑ 139 Home-Office Deduction
- ❑ 140 Income-Tax Reform
- ❑ 141 Independent Contractor/Employee Classification
- ❑ 142 Individual Retirement Accounts
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- ❑ 531 China's Most-Favored-Nation Trade Status
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- ❑ 537 Intellectual-Property Protection
- ❑ 538 Linking Labor and Environmental Issues to Trade

Health Care

- ❑ 631 Health-Care Reform
- ❑ 632 Workers' Compensation

Regulatory And Legal Impediments

- ❑ 731 Antitrust Reform
- ❑ 732 Economic Espionage Remedies
- ❑ 733 Federal Government Procurement/Acquisition
- ❑ 734 Improving Federal Regulations
- ❑ 735 Pension Reform
- ❑ 736 Privatization
- ❑ 737 Regulatory Accountability
- ❑ 738 Securities Litigation Reform
- ❑ 739 Tort Reform
- ❑ 740 Lobbying Reform

Transportation And Telecommunications

- ❑ 831 Telecommunications Infrastructure
- ❑ 832 Transportation (e.g., Economic Productivity, ISTEA Reauthorization)

Work Force, Labor, And Benefits

- ❑ 931 Davis-Bacon Repeal
- ❑ 932 Electronic Monitoring
- ❑ 933 Employer-Sponsored Visas
- ❑ 934 Fair Labor Standards Act
- ❑ 935 Family and Medical Leave Act (FMLA) Amendments
- ❑ 936 Illegal Immigration
- ❑ 937 Labor Law Reform (e.g., National Labor Relations Board, Union Organizing, Union Power)
- ❑ 938 OSHA (e.g., Reform, Regulations)
- ❑ 939 Workers' Right to Know
- ❑ 940 Workplace Participation—The TEAM Act
- ❑ 941 Minimum-Wage Increases

■ Action Needed

Vote Pending On Tax Limit

The U.S. Chamber of Commerce is asking its members to contact their lawmakers and urge support for a constitutional amendment that would limit Congress' ability to raise taxes.

The House is set to vote during the week of April 20 on a bill that would require a two-thirds majority of Congress to raise taxes. Under current law, taxes can be raised with a simple majority vote.

The tax-limitation amendment is sponsored by Republican Reps. Joe Barton of Texas and John Shadegg of Arizona and Democratic Reps. Ralph M. Hall of Texas and Robert E. Andrews of New Jersey.

For the amendment to pass, two-thirds of the members of each house of Congress—290 in the House and 67 in the Senate—must vote for it.

In urging approval of the tax-limitation proposal, Bruce Josten, the Chamber's executive vice president for government affairs, said in a letter to House lawmakers: "The two-thirds supermajority requirement to raise taxes ... would keep the pressure on limiting government spending in order to maintain a balanced budget."

Lawmakers can be reached through the Capitol switchboard at (202) 225-3121.

■ Testimony

PHOTO: ©TERRY ASHE

Martin A. Regalia, center, a vice president and the chief economist of the U.S. Chamber, told the House Small Business Committee in testimony Feb. 25 that the tax burden on small companies is too high. Regalia recommended several reforms, including changes to the estate and gift tax, the alternative minimum tax, and the rules governing companies organized as S corporations for tax purposes. He also called for reforming and restructuring the Internal Revenue Service. Also testifying were Karen Kerrigan of the Small Business Survival Committee and Bennie Thayer of the National Association of the Self-Employed.

■ Legislation

Labor-Law Reforms Backed

The U.S. Chamber of Commerce is backing legislation designed to make improvements in the National Labor Relations Act (NLRA) and its enforcement.

Peter C. Rousos, director of corporate human resources for Gaylord Entertainment Corp. of Nashville, Tenn., outlined the Chamber's position on the package of measures before a congressional panel on Feb. 5.

PHOTO: ©MICHAEL GEISSINGER

House Employer-Employee Relations Subcommittee Chairman Cass Ballenger, R-N.C., left, discusses labor-law reforms with U.S. Chamber witness Peter Rousos, *right*, and second, from right, Peter Eide, the Chamber's manager of labor policy.

Rousos told the House Education and the Workforce Subcommittee on Employer-Employee Relations that the legislation would make the NLRA fairer for small businesses and their employees.

The act, adopted in 1935, governs union organizing, collective bargaining, and other matters related to labor-management relations.

Rousos called the legislative package of changes "fair, rational, and farsighted." It includes the Truth in Employment Act, the Fair Hearing Act, the Justice on Time Act, and the Fair Access to Indemnity and Reimbursement Act. The four bills were combined into a single measure, titled the Fairness for Small Business and Employees Act.

The Chamber witness said the measures would "address serious problems arising under the [NLRA] and the procedures used by the [National Labor Relations Board] to enforce that law." The legislation would:

■ Allow an employer to refuse to hire any person "who seeks or has sought employment ... in furtherance of other employment or agency status." Currently, under the labor-relations act, an employer cannot deny employment to a person who applies for a job with the specific intent of organizing the employer's workers or inflicting economic harm to put the nonunion company out of business.

■ Require the National Labor Relations Board to hold hearings to determine on a case-by-case basis the appropriateness of union bargaining units at one or more locations of a multiple-facility employer. The NLRB was considering a regulation that would have recognized single-location bargaining units.

■ Require the NLRB to render a decision within one year of filing on complaints of unfair labor practices in which an employer is alleged to have discharged an employee in an effort to encourage or discourage union membership. Since 1981, the board generally has taken more than 500 days to issue decisions in cases alleging unfair labor practices.

■ Allow a small business or a labor organization to recoup attorneys' fees and expenses incurred in fighting an NLRB complaint if the company or the union prevailed in the case.

Annual Meeting

Blue Chip Honorees, Powell Are Highlights

Continued From Page 1A

volunteer groups to help 15 million "at-risk" youths gain needed job and life skills.

He made his remarks as the keynote speaker at a Chamber symposium on work-force preparation that was part of the Chamber's annual meeting.

Powell told the hundreds of people gathered at the Chamber's headquarters in Washington and those watching via satellite at 200 downlink sites nationwide that several resources are needed to support at-risk children, including mentoring programs, safer schools and neighborhoods, better access to health care, volunteer-service opportunities, and more involvement by businesses in working with schools and providing summer jobs and internships.

"We want to help our children get the marketable skills they need for the 21st century," he said. "And the U.S. Chamber of Commerce can play a vital role in making that happen."

Chamber President and CEO Thomas J. Donohue told Powell that the business federation will encourage its members to hire and work with young people.

"We are pledging to do everything in our power to mobilize and motivate American business behind this vital campaign to prepare young people for productive work lives," said Donohue. "It's great for business, and it's the right thing to do for our country."

Donohue also said that the Chamber will encourage its member companies to consider hiring the disabled, welfare recipients, and retirees.

"With a low unemployment rate, a growing economy, and an aging population," said Donohue, "business has a compelling need to identify and tap new sources of workers at all skill levels."

Herbert London, president of the Hudson Institute, an Indianapolis-based organization that looks at future trends, discussed the coming labor shortage and the demographics of the next century.

PHOTO: ©KEN TOUCHTON

The 1998 national honorees in the Blue Chip Enterprise Initiative received their trophies at the Chamber's annual meeting Feb. 23. From left are Sandy Gray of American Hardwood Co. of Gardena, Calif.; Margaret McEntire of Candy Bouquet International, Inc., of Little Rock, Ark.; Robert A. Juniper Jr. of Three-C Body Shop Inc. of Columbus, Ohio; and Jim Stovall of Narrative Television Network of Tulsa, Okla.

The Hudson Institute and the Chamber have teamed up to conduct a study of how the work force will change by 2020.

The symposium also featured Govs. Tommy G. Thompson, R-Wis., and Frank Keating, R-Okla., who talked about the welfare-to-work initiatives in their respective states and the need for business to be involved in welfare-to-work programs.

Other leaders who participated in the symposium included Tony Coelho, a former Democratic congressman from California who is chairman of the President's Commission on Employment of People with Disabilities, and Fred Grandy, a former GOP representative from Iowa who is president and CEO of Goodwill Industries International. Coehlo encouraged companies to hire people with disabilities, and Grandy discussed community efforts to help train the unemployed.

Also participating were Eli Segal, president and CEO of the Welfare to Work Partnership, and Aida Alvarez, administrator of the Small Business Administration, who pointed out the various resources available to businesses looking to hire welfare recipients.

Donohue called on Chamber members and all businesses to become more involved in issues related to work-force development, including welfare-to-work initiatives, education reform, and job training.

He said that the Chamber is committed to helping companies find and prepare workers for the coming millennium.

A major highlight of the annual meeting, which followed a meeting of the Chamber's board of directors, was the recognition of the four 1998 national designees of the Blue Chip Enterprise Initiative. The annual program recognizes small firms that have surmounted challenges and emerged stronger.

The honors program is sponsored by Massachusetts Mutual Life Insurance Co. (known as MassMutual—The Blue Chip Company), the U.S. Chamber, *Nation's Business*, and "First Business," the Chamber's weekday morning television news program.

The 1998 honorees are American Hardwood Co. of Gardena, Calif.; Candy Bouquet International, Inc., of Little Rock, Ark.; Narrative Television Network of Tulsa, Okla.; and Three-C Body Shop Inc. of Columbus, Ohio. The companies are profiled in the April issue of *Nation's Business*, beginning on Page 36.

Issue Symposium

Views Clash On Health Mandates

Reps. Charles Norwood, R-Ga., and Anne M. Northup, R-Ky., clashed over Norwood's health-care bill at a Feb. 24 symposium on health care; the symposium was sponsored by the National Chamber Foundation.

PHOTOS: T. MICHAEL KEZA

Pending federal health-care mandates may encourage businesses to cancel their health insurance and simply pay workers the cash value of the benefits, U.S. Chamber of Commerce President and CEO Thomas J. Donohue warned lawmakers.

Donohue, speaking at a health-care symposium at the Chamber's Washington headquarters Feb. 24, told White House and congressional officials participating in the event that federal health-mandate proposals would create such a huge business liability that many companies would simply stop offering health benefits.

Workers, he said, would be left to find health-insurance policies on their own, with only cash assistance from their employers.

If legislation pending in Congress is enacted, "we'll recommend to every business in the country to give their employees a check and get out of the health-care business," said Donohue, who also is president of the National Chamber Foundation, the Chamber policy-research affiliate that sponsored the symposium. Donohue was referring particularly to the proposed Patient Access to Responsible Health Care Act sponsored by Rep. Charles Norwood, R-Ga., and Sen. Alfonse M. D'Amato, R-N.Y.

Norwood was among the speakers at the bipartisan symposium, which also featured Chris Jennings, deputy assistant to President Clinton for health-care policy. The program also included congressional leaders, health-care-industry executives, and business leaders, all of whom offered a wide range of innovative alternatives to expanded government control.

The Norwood-D'Amato legislation would establish several new medical consumer protections, including requirements that managed-care plans pay for emergency care that a "prudent layperson" would deem necessary. It also would allow patients to appeal to an external reviewer the decisions reached by health-care plans.

Chris Jennings, President Clinton's deputy assistant for health-care policy, defended the president's recently proposed health-care "bill of rights" during an address at the Chamber's health-care symposium.

"The problem is that many [health-maintenance organizations] do deny care, and that puts human beings at risk," Norwood said.

The legislation also would repeal a liability provision in the 1974 Employee Retirement Income Security Act (ERISA); this would allow employees to sue their health plans for damages under state malpractice laws.

Critics say the Norwood and D'Amato bills (H.R. 1415 and S. 644) would greatly expand the medical-malpractice liability of managed-care plans and insurance firms and would create a new liability for employers who offer health-insurance benefits.

Bruce Josten, the U.S. Chamber's executive vice president for government affairs, described the Norwood bill as "a trial lawyer's dream but an employer's nightmare."

Like Norwood, Jennings is the architect of a proposal that business finds especially troubling. He helped write President Clinton's proposed health-care "bill of rights," announced in mid-November in response to recommendations of a 34-member health-care advisory commission the president appointed nine months earlier.

At press time, Clinton's proposal had not been introduced as legislation in Congress. The plan would give patients a wide range of new legal powers over their doctors, hospitals, and insurers.

Critics say the Norwood-D'Amato and Clinton proposals would impose costly restrictions on managed-care health plans, directly or indirectly resulting in new government mandates that would increase health-care expenses for employers and their workers.

The leading business group opposing these and other proposals is the Health Benefits Coalition, which includes the U.S. Chamber and a wide range of trade groups and businesses.

A Chamber/Health Benefits Coalition poll of small-business owners that was released at the symposium indicated a strong negative reaction to possible increased health-care costs and liability exposure. The poll suggested that many small businesses would drop their health coverage for employees if new mandates significantly increased the costs of the benefit.

Donohue noted that health care is "without question the most emotional, complex, and divisive domestic issue facing our nation." The point was illustrated later in the program when Rep. Anne M. Northup, R-Ky., clashed sharply with Norwood over his proposal for new federal controls.

Donohue said that new federal health-care mandates, even if well-intentioned, would increase the ranks of the uninsured because fewer small businesses and their workers would be able to afford health-care coverage.

■ Litigation

NCLC Awaits Rulings On Key Business Cases

Among a number of recent moves, the National Chamber Litigation Center took action on behalf of business in court cases on environmental and punitive-damages issues.

The NCLC, the public-policy law firm of the U.S. Chamber of Commerce, filed friend-of-the-court briefs in the cases, which are still to be decided.

Here are case overviews:

Clean Water And Endangered Species

The NCLC is asking two U.S. appeals courts to reject the U.S. Environmental Protection Agency's attempts to force states to abide by terms of one federal law when they are seeking approval of programs under a separate federal statute.

The action arises from an EPA requirement that states comply with rules of the federal Endangered Species Act as a condition for getting EPA approval of their clean-water-permit programs under the federal Clean Water Act.

The case involved is *American Forest & Paper Association vs. EPA.* At issue is the EPA's interpretation of a section of the Clean Water Act. The agency said the statute requires states to consult with the U.S. Fish and Wildlife Service to ensure that state clean-water permits would not jeopardize species or habitat listed or proposed for listing under the federal Endangered Species Act.

The NCLC pointed out in separate briefs to the 5th Circuit Court of Appeals in New Orleans and the 10th Circuit Court of Appeals in Denver that none of the criteria in the federal Clean Water Act or in the EPA's regulations for implementing that law refer in any way to the Endangered Species Act.

The appeals courts in New Orleans and Denver are hearing cases involving clean-water-permit programs for Louisiana and Oklahoma, respectively.

As a condition for approving Louisiana's and Oklahoma's clean-water-permit programs, the EPA required those states' compliance with provisions of the Endangered Species Act.

Under the state programs, permits are issued to let applicants make discharges into bodies of water in the respective states.

The EPA maintains that approval of state programs is a federal action that allows the U.S. Fish and Wildlife Service to approve or deny individual permits based on compliance with the species statute.

The NCLC argues, however, that "the courts have consistently recognized that where a state [clean-water] program application satisfies [Clean Water Act] criteria, EPA must approve" the state's application for a program.

Also, says the NCLC, "the courts have repeatedly recognized that federal involvement in program delegation and oversight does not equate to a 'federal action' for [Endangered Species Act] purposes."

Allowing the EPA to link requirements of the Endangered Species Act with approval of state clean-water programs will directly affect every commercial, industrial, and municipal entity that is required to have a state-issued clean-water permit, says Charles Ingram, associate manager of resources policy for the U.S. Chamber.

Permit holders, he notes, will be required to increase their monitoring and screening of discharges, and facilities could be forced to add new controls for, or have limits placed on, their discharges. Even common land uses, such as farming and road construction, could be restricted or prohibited, says Ingram.

Punitive Damages

In the punitive-damages case, *Lane and Villalpando vs. Hughes Aircraft Corp.,* the NCLC is asking the California Supreme Court to reverse an appellate court ruling that vacated a lower court's decision to throw out a jury's large punitive-damages award and to grant a new trial.

Jeffrey Lane, an aerospace engineer with Hughes, claimed that he was denied a promotion because of his race, and David Villalpando, Lane's supervisor, claimed that he was denied a promotion because he supported Lane. Both sued the company for lost wages and emotional distress.

A trial jury found in favor of both workers and awarded them $89.5 million in compensatory and punitive damages, one of the largest jury verdicts in the history of American employment law.

The trial-court judge issued a "judgment notwithstanding the verdict" for Hughes and offered Lane and Villalpando a new trial.

The appeals court overturned the trial court's decision but cut the punitive-damages award from $80 million to $7.8 million and reinstated the compensatory damages of $4 million for lost wages and $5.5 million for emotional distress.

"This reinstated award for the denied promotions is more than a $17.3 million mistake," says Robin Conrad, vice president of the NCLC. "It is a classic example of the offhanded way in which far too many companies are overpunished in this country."

In its brief supporting the lower court's decision to throw out the jury verdict and grant a new trial, the NCLC argues that the court of appeals "decimated the trial court's traditional power to grant a new trial based on excessive damages for emotional distress." The NCLC also argues that the appeals court failed to perform its constitutional duty to look at the punitive-damages award in light of the conduct being punished and that the court failed to look at the "extraordinary deterrent and punitive effect" of the large compensatory-damages award.

■ Regulations

Action Urged On Mandates Bill

A bill pending in Congress would provide lawmakers with better information about the costs and consequences of federal laws and regulations on the private sector, says the U.S. Chamber of Commerce.

Bruce Josten, the Chamber's executive vice president for government affairs, urged Congress to act swiftly on the Mandates Information Act, which he said would "help make Congress more responsive to the burdens imposed on business by ill-considered mandates."

PHOTO: T. MICHAEL KEZA

Bruce Josten, the U.S. Chamber's executive vice president for government affairs, urged the Senate Budget Committee to move quickly on a bill that would limit federal mandates on the private sector.

He made his remarks in testimony before the Senate Budget Committee on Feb. 12.

The mandates measure is sponsored in the Senate by Sen. Spencer Abraham, R-Mich., and in the House by Reps. Rob Portman, R-Ohio, and Gary A. Condit, D-Calif.

Thomas D. Hopkins, an economist with the Rochester Institute of Technology, estimates that federal mandates cost U.S. businesses and individuals about $700 billion a year. His findings were published by the Center for the Study of American Business at Washington University in St. Louis.

The Mandates Information Act would require the Congressional Budget Office to estimate the impact of all bills' private-sector mandates on consumer prices, on workers' wages and employment opportunities, and on small-business hiring, expansion, and profitability.

The legislation would allow a lawmaker to call for a point-of-order vote on any mandate that would exceed $100 million in annual costs to the private sector. A point of order prohibits further floor action on the measure unless a majority of the House or the Senate votes to waive the point of order.

Call your senators and representative and ask them to support the Mandates Information Act. Also urge them to begin consideration of the measures, S. 389 in the Senate and H.R. 1010 in the House. Lawmakers can be reached through the Capitol switchboard at (202) 224-3121.

U.S. Chamber Member Benefits

Here are some of the most important products and services offered by the U.S. Chamber.

How Your Members Of Congress Voted

The latest edition of the Chamber's *How They Voted* is now available.

The guide features senators' and representatives' votes in the first session of the 105th Congress on selected issues of importance to business in 1997.

Included are descriptions of the issues chosen by the Chamber in determining its vote ratings for each member of Congress and the business federation's position on those issues. Two sets of ratings are included—one based on votes cast in 1997 and one based on each senator's and representative's Chamber vote rating during his or her congressional tenure.

To order the guide, call 1-800-638-6582. In Maryland, call 1-800-352-1450. Copies are $10 for Chamber members and $12 for nonmembers. Ask for Publication No. 0520.

Productivity Survey

Businesses can participate in a benchmarking survey being sponsored by the U.S. Chamber and organizational-management firms Franklin Covey Co. and Vitality Alliance Inc.

The survey is aimed at helping companies evaluate their productivity efficiency and will be used to create a national Productivity Benchmark Index.

State and local chambers of commerce and associations that refer their members to the survey can raise nondues revenue by doing so. The cost to U.S. Chamber member companies that participate in the study is $15 for each worker who completes a survey.

For more information, call Vitality Alliance at (801) 344-8611.

Doing Business On The Internet

A free seminar on using the Internet to make money and expand your business—sponsored by IBM Corp. and produced by the Chamber—will be held April 8.

The program will air via satellite from 1 to 3 p.m. Eastern time at downlink sites nationwide.

The seminar will feature Kendra Bonnett, an Internet expert and author of *Doing Business on the Internet*, published by IBM.

For more information about the seminar or to find the downlink site nearest you, call the Chamber at 1-800-835-4730 or (202) 463-5940.

Retirement Plans For Small Firms

The U.S. Chamber of Commerce and Fidelity Investments are offering a package of retirement plans and services that are designed to be accessible, affordable, and convenient for Chamber members.

The products—intended primarily for businesses employing fewer than 100 workers—include 401(k), Keogh, SEP-IRA, and SIMPLE (Savings Incentive Match Plan for Employees) plans.

Fidelity provides investment-management and record-keeping services as well as materials that employers can use to communicate with employees about the plans.

For more information, call Fidelity toll-free at 1-888-RET-PLAN (1-888-738-7526).

Airborne Express Discounts Available

Through a special arrangement between the Chamber and Airborne Express, Chamber members can save up to 33 percent on the cost of overnight shipments to nearly anywhere in the United States and to the more than 200 foreign destinations served by Airborne.

To obtain the special discount, call 1-800-636-2377 and identify yourself as a U.S. Chamber member. You will be sent a free starter kit.

A Guide To Congress

The Chamber's *1998 Congressional Handbook*, a guide to the second session of the 105th Congress, which convened in late January, is available from the organization.

The handbook includes the photographs, telephone and room numbers, committee and subcommittee assignments, and key staff members for all senators and representatives in the second session of the 105th Congress. It contains the locations and telephone numbers of the legislators' district offices as well.

Lawmakers are listed alphabetically, by state, and separately by committee.

A directory of addresses and telephone numbers for the White House, Cabinet-level agencies, and state governors is included.

The handbooks cost $13 each for U.S. Chamber members and $16 for nonmembers for orders of one to nine copies. Bulk discounts are available for orders of 10 to 99 copies and for 100 or more copies.

To order, call 1-800-638-6582. In Maryland, call 1-800-352-1450. Request Publication No. 0518.

Economic Journal

The Center for International Private Enterprise (CIPE), an affiliate of the Chamber, produces a quarterly journal on economic policy in newly democratized and other developing countries.

The publication, *Economic Reform Today*, is distributed to top government policy-makers and business and opinion leaders worldwide; it can be ordered by calling (202) 721-9200. Issues of the journal are also available on the Internet's World Wide Web. CIPE's Web address is *http://www.cipe.org*.

Grass-Roots Services Guide

A free guide to the programs, services, and publications of the Chamber's Office of Membership Grassroots Management is available by calling 1-800-638-6582. In Maryland, call 1-800-352-1450. Ask for Publication No. 0477.

Among other programs, the grass-roots office manages the Chamber's Grassroots Action Information Network, the system used to alert members to pending legislative issues.

Business Cases In The Courts

The National Chamber Litigation Center, the U.S. Chamber's public-policy law firm, publishes *The Business Counsel* to keep companies informed about important business-related court cases in which the NCLC is involved.

The quarterly publication, along with a listing of NCLC cases—published eight times a year—is free to NCLC members.

For more information about the NCLC, call Robin Conrad at (202) 463-5337.